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In the

# Supreme Court of the United States

ANNE M. GLAVEY,

*Petitioner,*

-against-

DIME SAVINGS BANK OF NEW YORK,
MICHAEL ROBERTS, ESQ., RECEIVER

*Respondent.*

# PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK

ANNE M. GLAVEY
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## QUESTIONS PRESENTED

1. Did the Court of Appeals of the State of new York violate Petitioner's Due Process rights by denying her Motion for leave to appeal to that Court?

2. Did the Supreme Court of the State of New York, Appellate Division, First Judicial Department violate Petitioner's Due Process rights by denying her reargument of a previously entered Order by the same Court?

3. Did the Supreme Court of the State of New York Appellate Division, First Department violate Petitioner's Due Process rights by Affirming the lower Court's decision which denied Petitioner her right to sue the Receiver for rents collected and monies had and received from petitioner's apartment, which were unaccounted for?

4. Did the Supreme Court of the State of New York, Appellate Division, First Department violate Petitioner's Due Process rights by not setting aside Sanctions imposed by the Supreme Court when petitioner requested an accounting of her rents and monies had and received by Receiver of her apartment?

5. Did Justice Lehner of the Supreme Court of the State of New York violate Petitioner's Due Process rights by denying petitioner her right to sue the Receiver for rents and monies had and received from petitioner's apartment, all of which were not account for?

6. Did Justice Lehner err in imposing Sanctions against Petitioner for simply requesting an accounting of monies, which Receiver refused to give to petitioner, thereby depriving petitioner of her liberty and her property without Due Process of the Law?

Are those not compelling reasons and of public importance to grant Certiorari?

## PARTIES TO THE PROCEEDING

The parties to the proceedings are those named in the caption.

## TABLE OF CONTENTS

QUESTIONS PRESENTED ..... i

PARTIES TO THE PROCEEDING ..... iii

TABLE OF CONTENTS ..... iv

TABLE OF AUTHORITIES ..... v

APPENDICES ..... vi

OPINIONS BELOW ..... 3

JURISDICTION ..... 3

STATEMENT OF THE CASE ..... 3

REASONS FOR GRANTING THE WRIT ..... 23

## TABLE OF AUTHORITIES

*Pages*

**Cases:**

*Horn v. O'Cheskey,*
378 F. Supp. 1280 (1) N.M. 1974 ..... 24

*Independence Savings Bank v. Brown,*
100 A.D.2d 613 (2nd Dept. 1984) ..... 24

*Kertes Ent., Inc. v. Orange Village Planning zoning Comm,*
71 Ohio App. 3rd 151, 593 N.E.2d 306 (Ohio 85th Dist. App. 1990) ..... 24

**Statutes:**

Title 28 USC Section 1257(a) ..... 3

## APPENDICES

Appendix A–Order of the New York Court of Appeals dated March 30, 2004 ..... 1a

Appendix B–Order of the Appellate Division -First Department dated December 11, 2003 ..... 3a

Appendix C–Order of the Appellate Division-First Department entered October 7, 2003 ..... 4a

Appendix D–Order of the Supreme Court of the State of New York dated May 24, 2002 ..... 6a

Appendix E–Constitution and Statutory Provisions Involved. ..... 8a

Appendix F–Order Appointing Receiver ..... 9a

Appendix G–Receiver's Bond ..... 14a

Appendix H–Order dated April 8, 1994 ..... 18a

Appendix I–Court and Trust Fund Receipt ..... 20a

Appendix J–Letter dated May 3, 1995 ..... 22a

Appendix K–Letter dated May 9, 1995 ..... 24a

Appendix L–Leases ..... 26a

Appendix M–Checks and Bills ..... 75a

Appendix N–Letter dated February 20, 1998 ..... 81a

Appendix O–Letter dated December 8, 1995 ..... 85a

Appendix P–Notice of Judgment ..... 87a

Appendix Q–Letter dated April 9, 1997 ..... 90a

Appendix R–Bankruptcy Court Order and Stipulation .. 91a

Appendix S–Letter dated May 30, 2000 ..... 98a

Appendix T–Stipulation ..... 101a

Appendix U–Consent Order dated May 27, 2000 ..... 105a

Appendix V–Correspondence ..... 109a

Appendix W–Motion and papers re accounting ..... 116a

Appendix X–Affirmation and Order Discharging Receiver ..... 128a

Appendix Y–Letter dated March 6, 2001 ..... 133a

Appendix Z–Motion and Cross-Motion re Judicial Subpoena ..... 140a

Appendix AA–Letter dated June 11, 2001 ..... 164a

Appendix BB–Order dated Aug. 20, 2001 ..... 165a

Appendix CC–Letter dated September 7, 2001 ..... 167a

Appendix DD–Statement of Claim in Small Claims Court ..... 169a

Appendix EE–Motion to Dismiss ..... 173a

Appendix FF–Defendant's Motion for Summary Judgment ..... 184a

Appendix GG–Motion for Permission to sue Receiver and Cross-Motion ..... 203a

In The
# Supreme Court of the United States
October Term, 2004

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ANNE M. GLAVEY,

*Petitioner,*

-against-

DIME SAVINGS BANK OF NEW YORK,
MICHAEL ROBERTS, ESQ., RECEIVER,

*Respondent.*

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PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF THE
STATE OF NEW YORK

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## PETITION FOR WRIT OF CERTIORARI

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Petitioner, Anne Glavey, respectfully prays that a writ of certiorari issue to review the Order of the Court of Appeals of the State of New York which denied leave to appeal to the Court of Appeals from an Order of the Supreme Court of the State of New York, Appellate Division, First Department denying leave to appeal to the Court of Appeals and denying reargument of a decision and order previously entered. That Order affirmed the decision of the Supreme Court of the State

of New York which denied Petitioner her right to sue the Receiver for rents and monies collected by him while he was receiver of petitioner's apartment, which were unaccounted for and in addition Sanctions issued against her for simply requesting an accounting of her monies, which denied this Petitioner her Due Process Rights.

## OPINIONS BELOW

The Order of the State of New York Court of Appeals denying leave to appeal to the Court of Appeals appears as Appendix A to this Petition. The Order of the Appellate Division of the Supreme Court, First Judicial Department in the County of New York for reargument and leave to appeal to the Court of Appeals appears as Appendix B. The Order of the Appellate Division of the Supreme Court, First Judicial Department in the County of New York affirming the Supreme Court of the State of New York's decision denying Petitioner to sue the Receiver for rents and monies unaccounted for while he was receiver of her apartment, in addition the imposition of Sanctions against her for simply requesting an accounting of her monies, appears as Appendix C. The Order of the Supreme Court of the State of New York denying Petitioner permission to sue the Receiver for rents and monies unaccounted for, in addition to imposing Sanctions against her for simply requesting an accounting of her affairs, appears as Appendix D.

## JURISDICTION

The last Order of the State of New York Court of Appeals in this matter was filed on March 30th 2004. This appeal is made pursuant to the Supreme Court rule within ninety (90) days of the date of such decision, in addition to the sixty (60) days extension granted by this Court, up to August 27, 2004. This Court's Jurisdiction is invoked under Title 28 USC Section 1257(a).

## STATEMENT OF THE CASE

It is Fundamental Law that no one can be deprived of

life, liberty or property without Due Process of the Law.

In this case Judge Edward H. Lehner of the Supreme Court of the State of New York, New York County appointed a Receiver - Michael Roberts, in February of 1995, to collect the rents from the Petitioner's apartment located at 404 East 66th Street, Apartment 12A, New York, N.Y. 10021 (A.9a). He took out a Surety Bond with the Home Indemnity Company. Michael Roberts swore that:

> "I swear that I will faithfully, honestly, and impartially discharge the trust committed to me as such Receiver." (A.16a).

The proposed Order appointing the Receiver was drawn up by the Dime Savings Bank of New York and was signed by Judge Lehner after making some changes of his own; for example changing the period of time requested by the Bank from one year to *two years* (A.12a).

It was the same Judge Lehner who "rubber stamped" petitioner's apartment over to the Dive Savings Bank of New York, on a Motion for Summary Judgment, without even a trial, although petitioner had paid her monthly mortgage payments diligently to the bank.

It was the same Judge Lehner who gave this Petitioner just six day to post a Cash Bond of $25,000.00 with the Trust Fund of the Court to Stay the Sale of her apartment (A.18a).

And it was Judge Lehner who appointed Michael Roberts as Receiver to collect petitioner's rent from her apartment.

What has transpired thereafter, it appears that Judge Lehner and Michael Roberts were in collusion and conspired against this petitioner to maximize the profits to the Receiver, at the expense of this petitioner, which will be illustrated forthwith.

On May 3, 1995, petitioner wrote to the Receiver requesting that she continue to rent her apartment on her own and forward the rents to him (A.22a). Michael Roberts responded quickly on May 9, 1995 (A.24a) stating:

> "The present tenant has indicated that he would move out in the middle of June or earlier," (A.25a). "Under no circumstances should you enter into a lease directly with any prospective tenant." (A.24a).

Prior to that, by February 1, 1995, petitioner had secured a tenant for her apartment (A.26a). The rent was $2,000 per month and the tenant had paid the first three months in advance (A.35a). Therefore May and June of 1995 still remained to be paid and collected by Michael Roberts in the amount of $4,000. This is approximately the amount that petitioner is missing from her rents. As stipulated in the Lease, the tenant paid his own utilities.

The next tenant was secured by a Real Estate Agent with Michael Roberts as landlord for a period of 3 ½ months at a rate of $2,000 per month, making a total rental amount of $7,500 in addition to $2,000 security deposit against damages and unpaid utility bills (A.36a ). Please see Rider to the Lease wherein it states:

"33. The Con Edison and cable television accounts will be paid by Jacqueline Drucker. The Telephone account will be paid by Jacqueline Drucker." (A.52a).

"34. The security deposit ($2,000.00) shall be held by Michael Roberts, Receiver and will be returned to Jacqueline Drucker at the conclusion of this Agreement, after all charges in item number 33, above have been paid, and provided that the apartment is vacated in the same condition as when rented, except for normal wear and tear." (A.52a ).

Michael Roberts kept the security deposit and the utilities were not paid by the tenant or the receiver, but had to be eventually paid by this petitioner.

The next tenant was also secured by Michael Roberts as Landlord and Feathered Nest as the Real Estate Agent, for a period of 1 ½ months at a rate of $2,000 per month, making a total rental of $3,000, in addition to $2,000 as security deposit. $1,500 was paid to Feathered Nest. (A.69a). This tenant was from Turkey. Michael Roberts did not pay for the utilities, and once again, held on to the security deposit and the utilities had to be paid by this petitioner.

In all Michael Roberts collected $14,000.00 in rents ($4,000 + $7,000 + $3,000 equals $14,000.00). He also collected $4,000 in security deposits.

The utilities bills (A.75a) had to be paid by this petitioner in the total amount of $853.13. A more detailed analysis is set forth in her letter to her attorney - Seth Farber, Esq., in February of 1998 (A.81a).

In December of 1995, petitioner filed Chapter 13 Bankruptcy protection. At that point Michael Roberts was relieved of his duties as Receiver. He collected the rents for a period of 7 months from May, 1995 to November, 1995, and deposits of $4,000. Yet in 7 months, the Receiver has managed to short change this petitioner approximately $4,000. In addition, he did not pay for the utilities and there is no record of his ever returning the deposits to the respective tenants, not to mention the interest which they are entitled to by Law.

Only that petitioner had filed Chapter 13 Bankruptcy protection, the Receiver would have had use of her rents for *two years*, as ordered by Judge Lehner. (A.91a). In addition, the Receiver never gave one penny of interest to petitioner, yet held on to her monies for almost six years. While the amount of $25,000.00 deposited with the Trust Fund yielded her a hefty $6,288 for the same period of time that the Receiver was holding $14,000.00.

Despite petitioner's numerous letters to Michael Roberts to pay for the utilities and a request to return the security deposits to the respective tenants, who had been contacting petitioner regarding same, and indeed, petitioner's letter of December 8, 1995 (A.85a) was ignored by Michael Roberts.

On October 1, 1996, petitioner filed an action in the Small Claims Court of New York, in an effort to get the Receiver to pay for the utilities from the deposits which he was holding (A.169a). The case was dismissed without prejudice, as later petitioner learned that she had to get permission from Judge Lehner to sue Michael Roberts.

Still, there was nothing forthcoming, from the Receiver in payment of the utilities or an account of petitioners's rents, so she wrote to him once again, all to no avail (A.90a).

By Order of the Bankruptcy Court, dated January 6, 1999 (A.91a) it states:

> "IT IS FURTHER ORDERED that Michael Roberts, Esq., as Receiver pursuant to the foreclosure action, pursuant to U.S.C. Sections 542 and 543, is to turn over any and all proceeds including but not limited to rents received for the apartment located at 404 E. 66th St. Apartment 12A in New York, New York (less only statutory disbursements and receiver's commission or fee with ten (10 days of the date of this Order,"

Thereafter, the Receiver drew up his own Stipulation to be signed by the Bankruptcy Court (A.101a). It states the following:

"The Receiver having duly produced and provided an *"informal Temporary Receiver's Account"* to plaintiff, which plaintiff has reviewed and approved,"

This Petitioner is the "plaintiff". There was no such accounting sent to the plaintiff "informal" or otherwise and neither was it attached to the Stipulation sent to petitioner's attorney.

(1) approving the Temporary Receiver's "*informal account.*"

(2) fixing the *"negotiated commissions"* of the temporary receiver,

(3) discharging the Temporary Receiver and the Surety on his undertaking

(4) canceling said undertaking."

The *"negotiated commissions"* were fixed in the amount of $758 and $120 for costs.

Clearly, *"negotiated"* they were and nothing was put in writing. Accordingly, by his own admission, Mr. Roberts would have been holding in January and February of 1999, approximately $15,160.00 in rents alone, apart from the security deposits of $4,000. Based on the statutory commission of 5%, it was *"negotiated"* that Mr. Roberts would be allowed $758.00 in commissions, $758 x 20 comes to $15, 160.00. This is not what the Receiver turned over to this Petitioner, but an amount of $11,483.04, one year later (A.100a). Clearly, there is a shortfall to the petitioner in the amount of $3,676.96, not to mention the interest. In addition he kept the Security Deposits from the tenants, from which the utilities were to be paid. That yielded the receiver another $4,000. This Petitioner was forced to pay for the utilities out of her own pocket in the amount of $853.13. That is a total loss to the petitioner in the amount of $4,530.09. This is hardly small change in comparison to the amount of rent the Receiver collected in the amount of $14,000.00, for just seven months.

Indeed, the Receiver had an interest free loan in the amount of $18,000.00 for approximately six years, as well as keeping for himself thousands of dollars of this petitioner's

monies.

Please note that in Mr. Roberts' Stipulation, the address is not that of petitioner's apartment, as it states 414 E. 64th Street, New York, New York. Petitioner apartment is located at 404 East 66th Street, New York. As will be pointed later, the address on the alleged bank statements is yet again different.

On or around March 27, 2000, Michael Roberts drew up a similar Stipulation to be assigned Judge Lehner (A.95a). It states:

> "2. The parties, after *"negotiations and discussion"* of the aforementioned receiver's informal final account and having agreed to a *"negotiated settlement"* of their disputes and differences; plaintiff agrees to pay MICHAEL J. ROBERTS, RECEIVER, the amount of $758.00 as and for his duly earned commissions."

Please note that there is no record of what was *"negotiated."* Nothing was put in writing, obviously to the benefit and gain of the Receiver. The rents of petitioner's apartment was not turned over until months later and petitioner had to file a Motion with the Court to get any kind of a so-called *"final account."*

> "3. It is hereby stipulated and agreed that plaintiff *"shall"* accept and approve the *"informal receiver's formal final account"* and *"consent to"* the entry of an order approving the receiver *"informal final account,"* and approving receiver's claim for duly earned

> statutory commissions in the amount of $758.00; it is further agreed that the parties consent to the entry of an order approving the receiver's *"formal final account"* in the amount of $758.00, and $120.00 for costs" ...

This Petitioner never disputed the commissions of $758.00, and $120.00 for costs (with no explanation). Clearly, then based on the *"negotiations"*, Mr. Roberts was holding $15,160.00 in rents, as outlined previously.

On or around March 28, 2000, Michael Roberts submitted yet another Stipulation "APPROVING RECEIVER's FINAL ACCOUNT" to Judge Lehner (A.105a). It states:

> ...."the Receiver having duly turned over control of the subject premises to plaintiff and having forwarded any balance remaining in the Receivership account, ..."

The Receiver's *"control of the subject premises"* to petitioner was removed when she filed for Chapter 13 Bankruptcy protection in December 1995, *"almost five years prior."* However, though, the Receiver is still in *"control of the subject"* rents.

Clearly, *"any balance remaining in the Receivership account"* was not forwarded to petitioner until some months later (A.107a).

The last paragraph of the same Stipulation states:

> "ORDERED that the Temporary Receiver be and *"will be"* discharged as such Temporary

> Receiver, and the Surety on his undertaking, Home Indemnity Company of Manchester, New Hampshire, be and its *"shall be"* discharged from any and all liability on said undertaking, and that said undertaking *"shall"* be cancelled."
>
> "Upon making the payments directed herein and Receiver submitting an *"ex-Parte Order"* of discharge *"shall be"* discharged and undertaking cancelled."

Clearly, this Stipulation signed *"in the present"* refers to the *"future."* And, indeed, surely it is obvious that there was no written accounting of this petitioner's rents and other monies had and received by Mr. Roberts. However, over and over again, the Receiver emphasizes his own *"commissions."*

The check in the amount of $11,483.04 (A.100a) sent by Michael Roberts to the petitioner could not be cashed because of her name alteration, in addition, please note that the checking account does not reflect her address, but that of 404 East 16th Street. Also, the check had to be reissued to reflect the correct name (A.110a)

On June 12, 2000, petitioner wrote to the receiver requesting an accounting of her rents (A.111a). Petitioner followed up with another letter on September 12, 2000 (A.113). And, yet another letter on October 12, 2000, all to no avail.

On November 16, 2000, Petitioner filed a Motion to Judge Lehner requesting that he compel the Receiver to give her an accounting of her monies (A.116a). It was not responded to by Michael Roberts. However, on or around January 19, 2001 petitioner received an Order from the Court (Judge

Lehner) (A.123a) stating:

> "Upon the foregoing papers, it is ordered that this motion to require the receiver, Michael Roberts, to file a *"final accounting"* is granted *"without objection."* Such accounting shall be filed within 30 days of service of a copy of this order."

Michael Roberts did not respond to Petitioner's Motion. Yet, there was an Order signed by Judge Lehner, but it was not sent to the Petitioner and it appears that Michael Roberts was informed of it by Judge Lehner.

Indeed, and for the first time, the Receiver, Michael Roberts did submit a *purported accounting* to the Court (Judge Lehner) (A.124a) on or around February 16, 2001. There is absolutely no record of petitioner's rent, only alleged checks drawn on the account, with no evidence if the checks were ever written or cased. The Receiver has deducted $600 from petitioner's rent, allegedly $100 for each of the six years he forced himself to hang on as receiver. The Bond Company has allegedly two different names - "Offenhartz & Pedersen, Ltd." and "Risk Management". The deposits of $2,000.00 from two tenants are intermingled with petitioners rents, which should have been in a separate escrow account for the tenants, bearing interest on the $4,000.00 for the tenants themselves.

As previously outlined, the checking account is not for the petitioner's apartment, as it bears the incorrect address. In addition, the account was not opened until January of 2001 and that was only done to allegedly return the security deposit of $2,000.00 to a previous tenant - Saziment Arolat, who lives in Turkey. Please notice also that the heading of the Bank

Statement is obliterated blocking out the date the account was opened at Chase Bank (A.126a) in January of 2001. The deposit is returned allegedly some five years later, with no interest to the tenant in January 2001 and predated to November 2000 and without paying the utilities which tenants were responsible for.

At the same time the Receiver submits to the Court (Judge Lehner) an Affirmation and an "*Ex-Parte Order*" to be signed by Judge Lehner discharging the Receiver and canceling the Surety (A.128a). Indeed, none of the documents were sent to the petitioner or her attorney, but were found in the court file by this petitioner. They we Ex-Parte alright. And, notice that the correct address of petitioner's apartment is on those documents. Mr. Roberts states:

> "2. I submit this affirmation is support of the attached "*Ex-Parte Order*" discharging the Receiver and canceling the Surety based upon compliance with the prior order of the Hon. Edward H. Lehner, JSC, dated March 2, 2000. Copies of relevant documents and checks are attached hereto as Exhibits."

There was no such Order, dated March 2, 2000. It was dated March 28, 2000. By the Receiver's own admission, this is the first time that any type of documents allegedly relating to petitioner's account have been submitted.

> "5. In addition, *"your affiant has prepared a chart, Exhibit B, showing all disbursements, the amounts and the parties to whom the checks were paid."* It does not reflect ordinary bank charges, charged by Chase Bank during the term

of the Receivership."

The chart the receiver refers to is (A.124a). It is difficult to reflect "ordinary bank charges" when there was no account opened for petitioner's apartment.

*Judge Lehner signed the Ex-Parte Order (A.130a):*

> *"ORDERED that the Temporary Receiver be and hereby is discharged as such Temporary Receiver, and the Surety on his undertaking, Fidelity Deposit Company of Maryland, be and its hereby discharged from any and all liability on said undertaking, and that said undertaking be and the same is hereby cancelled."*

By signing the Order, Judge Lehner got the Receiver "off the hook" as well as the Surety Company, and left this petitioner "holding the can."

The Receiver constantly referred to as petitioner's "able counsel", yet when it came to the most important documents as the foregoing, the receiver never sent them to her attorney. *This final Stipulation/Order with a so-called accounting was never signed by petitioner's attorney and indeed was not even seen by him.*

After finding the foregoing documents in the Court's file, petitioner wrote to Judge Lehner outlining all of the discrepancies in the *so-called accounting by the receiver* (A. 133a). There was no response.

Petitioner followed up with another Motion to Judge Lehner on June 11, 2001 (A.140a) requesting him to sign a

judicial subpoena compelling Chemical Bank a/k/a Chase, "to supply Bank Statements, copies of checks and all other evidence and writings in their custody and power, concerning the above premises," of the petitioner. The *Receiver responded with a Cross Motion* requesting Judge Lehner to issue *Sanctions against* the petitioner, *for allegedly* making a *frivolous Motion* (A.148a). *Mr. Roberts states at paragraph 3:* "was not discharged until February 16, 2001 when I submitted a *second Final Accounting to this Court."*

Where is Mr. Roberts "*first accounting*" and why has he never submitted a copy of this alleged accounting with any of his documents? The fact of the matter is; there was none. In paragraph 4 he states: "Mr. Farber (petitioner's attorney) and I agreed to an 'informal accounting', (*A copy of the informal account is attached hereto as Exhibit 1).*"

*There was no such Exhibit attached and as previously explained the "informal accounting" was a "negotiated" accounting and was not put in writing, but was later to be used against this petitioner, to the advantage of the receiver.*

*Mr. Roberts states at paragraph 9: "That order (Ex-Parte) was never appealed from and is the final order in this case."*

*It is difficult to appeal an Ex-Parte order, when it was never sent to the opposing parties in the first place and was simply added to the Court's file for that very reason. Therefore, it should not have been the "final order" in this case.*

Petitioner filed her own reply to the Receiver's cross-motion (A.156a).

At the same time, petitioner wrote to the Surety Company, putting them on Notice that she had a claim against the Receiver. (A.164a). Mysteriously, petitioner's Motion was decided with the notation "MOTION IS PERMITTED TO BE WITHDRAWN" by Judge Lehner (A.166a), on August 27, 2001.

The Surety Company responded to petitioner's letter by way of their attorneys on September 7, 2001 (A.167a):

> "*Please be advised that a consent order dated march 27, 2000, and filed on March 28, 2000, approving the final account of Michael Roberts as Receiver was duly entered and approved by the Court by Judge Edward H. Lehner.* That order was submitted upon consent of all parties to the proceeding and signed off by her then attorney, Seth J. Farber. Thereafter, an additional order was entered on February 16, 2001, discharging Mr. Roberts and thereby Home as his surety under the above referenced undertaking."
>
> *Please note that it does not state that the last order was signed by any other parties except Michael Roberts and Judge Lehner.*

Thereafter, on September 21, 2001, petitioner filed a Small Claims action against Michael Roberts (A.169a) and also against the Home Indemnity Company (A.171a)

The Receiver responded with a request to "DISMISS THE PROCEEDING" based on the fact that petitioner needs permission from Judge Lehner to sue the receiver, in addition

he requested that the *"Court impose Sanctions against petitioner."* (A.174a).

Petitioner Opposed the Receiver's Motion.

The Home Indemnity Company responded to the Small Claims Action by way of their attorneys (A.178a). Clearly, their response is based upon what appears to be the collusion and conspiracy between Judge Lehner and Michael Roberts.

On January 10, 2002 The Home Indemnity Company filed another Motion for Summary Judgment (A.184a). Again, it appears to be based on the behavior and actions of Judge Lehner and Michael Roberts. *At the same time, the attorneys for the Home Indemnity Company sent a letter to the Receiver, but it was addressed to this petitioner by mistake* (A.198a). It states:

> *"Please let me know if Judge Lehner has signed the amended ex-parte order discharging Home's bond. Hopefully, it will be signed prior to the January 23, 2002 hearing."*

The action of the Small Claims Court was dismissed without prejudice, pending leave of the Supreme Court (Judge Lehner) to bring action against the receiver (A.200a).

On March 3, 2002, Petitioner wrote to the Receiver requesting the addresses of the tenants to whom he allegedly returned the security deposits, so that this petitioner could be reimbursed for paying for all of the utilities in the amount of $853.13 (A.201a). There was no response.

At the same time, Petitioner filed a Motion with the

Court (Judge Lehner) for permission to sue the Receiver (as stipuled by the Small Claims Court) (A.203a). *Petitioner requested Oral Argument.* The Receiver responded with his Affirmation in opposition to petitioner's Motion (A.219a).

Petitioner's apartment was always rented on a short term basis, furnished and the utilities had to be kept paid to secure the short term tenants. Petitioner had no choice but to pay for the utilities in the apartment to keep it rented. Indeed, that was the Receiver's job which he failed to so.

Mr. Roberts states at paragraph 5:

> "After a bankruptcy petition was filed by Ms. Glavey in Bankruptcy Court I had no other communication from Ms. Glavey concerning her dispute with the former tenants,"

Despite the numerous letter to him which were sent Certified, this bare faced lie is despicable.

In Paragraph 6, Mr. Roberts states:

> "More importantly, no motion was made, pursuant to the Section 543 of the Bankruptcy proceeding to turn over monies that the Receiver had in his possession."

Please see A.91a, signed by the Bankruptcy Judge on January 6, 1999, totally contradicting the Receiver's statement.

After the above Order of the Bankruptcy Court which had to be sent to Mr. Roberts, the commissions to Mr. Roberts were negotiated between Mr. Farber and Mr. Roberts, as has been earlier illustrated. Any other attorney had nothing to say

about commissions due to Mr. Roberts, as it was not their business.

Mr. Roberts states at paragraph 10:

> *"On February 14, 2000, your affiant submitted said ex-parte order to the Hon. Edward H. Lehner, and it was duly signed by Judge Lehner on or about February 16, 2000."*

The Affirmation of the Receiver and the proposed Order referred to above was submitted to Judge Lehner on February 14, 2001, and not 2000. *The ex-parte order was signed by Judge Lehner on February 16, 2001 and not 2000* (A.131a).

The Order of March 28, 2000 was one year prior (A.107a) wherein it states:

> *"Upon making the payments directed herein, and Receiver submitting an ex-parte order of Discharge, shall be discharged and undertaking cancelled."*

*That was added to the Order by Judge Lehner himself (A.107a). Indeed, the payments had not been made to the petitioner for some months later.*

Mr. Roberts states in paragraph 11:

> *"Neither of the above orders was ever appealed from by any of the parties herein, and the time to appeal has long since run."*

*There was only one Order to appeal from and that was the "ex-parte Order", which was hidden from this petitioner and her attorney.*

At paragraph 24 Mr. Roberts states:

> "Contrary to Ms. Glavey's belief, it is pointed out the Receiver is the representative of the Court, and the plaintiff and the debtor in a Receivership action. I did not act as her agent, nor did I act for the bank. *I acted only as an agent for the Court for very low pay."*

It is clear that Mr. Roberts acted as an agent for the Court and for the so-called "very low pay", Judge Lehner made sure that he would be further compensated at this petitioner's expense.

Mr. Robert's NOTICE OF CROSS-MOTION is similar to his other false charges in his Affirmation (A.228a). Petitioner filed her own Opposition to the Cross-Motion (A.237a).

The Motion was set down to be heard by Judge Lehner on May 24, 2002. *Petitioner had requested Oral Argument and sent a letter to Judge Lehner's secretary to have the Oral Argument recorded. The Oral Argument was denied and Judge Lehner stated that he would decide the Motion on the papers alone.*

The decision to the Motion was filed on May 31, 2002 (Appendix D):

> *"Upon the foregoing papers, it is ordered that this motion by defendant for leave to sue the*

*receiver is denied. Receiver Michael J. Roberts is awarded sanctions of $500 against defendant for the making of a frivolous motion, which shall be paid within ten days of service of a copy of this order. If not timely paid, Roberts may enter a judgment against defendant for said amount."*

Their "game plan" worked. That Order was appealed to the Appellate Division and whose decision is Appendix C. It states:

*"We note in particular that the "informal accounting" upon which defendant premises her claims of wrong-doing by the receiver, is not included in the record."*

As petitioner has clearly illustrated that there was no written "*informal accounting*" petitioner could not include it in the record. Over and over again, the Receiver has pointed out that there were "*negotiated*" commissions. *No where has the Receiver ever produced a copy of this so-called "informal accounting".*

The Receiver has been an attorney for approximately thirty years. With his experience and his anticipated "game plan" of strategy worked and in what appears to be in co-horts with Judge Lehner.

Mr. Roberts is supposed to be the "professional" here. Yet his "informal(ity) could hardly be classified as professional. The three Stipulations referred to by the Appellate Division were never signed or even seen by this petitioner. They were

signed by her attorney - Seth Farber. *The commissions were negotiated correctly by Mr. Farber. Based on the negotiated commissions of $758.00, the check the petitioner should have received should gave been in the amount of $15,160.00, but that is not what petitioner received from Mr. Roberts, but a check for $11,483.04.* In addition, she paid the amount of $853.13 in utilities, while the Receiver sat on $4,000.00 in deposits.

*The Ex-Parte Order and the so-called "formal accounting" was indeed the Order and documents to be challenged, but they were never sent to the petitioner or her attorney to be challenged.*

Indeed, it was the same Judge Lehner who "rubber stamped" petitioner's apartment over to the Dime Savings Bank of New York.

The Appellate Division denied reargument and denied petitioner leave to file in the Court of Appeals of the State of New York (Appendix B).

The Court of Appeals of the State of New York denied petitioner leave to appeal to that Court (Appendix A).

## REASONS FOR GRANTING THE WRIT

The Court of Appeals of the State of New York, in denying petitioner leave to appeal to that Court acted against its own standard of Review, and violated the established proceedings of this Honorable Court and the Fourteenth Amendment of the United States Constitution.

As set forth above, the instant Petition for Certiorari arises from the Court of Appeals of the State of New York, to

wit, the ultimate refusal of the Court of Appeals of the State of New York to grant leave to your petitioner to appeal to that Court from the decision of the Supreme Court of the State of New York, Appellate Division, First Judicial Department, resulting in that Court affirming a decision and order of the Supreme court of the State of New York, denying permission to petitioner to sue a Receiver, because the rents he collected from her apartment while he was receiver, fell far short of what petitioner ultimately received from the Receiver, in addition to imposing Sanctions against her for allegedly making a frivolous Motion by requesting an accounting of her affairs.

Petitioner contends, quite simply, that the New York Supreme Courts and the Court of Appeals denied her due process rights guaranteed by the United States Constitution, specifically the Fourteenth Amendment thereto.

State Courts bear equal responsibility with Federal Courts to guard and protect rights secured by the Constitution of the United States. *Horn v. O'Cheskey*, 378 F. Supp. 1280 (1) N.M.1974). Relevant to the instant certiorari application, the right to file appeal is a property interest which may not be revoked absent due process of law. *Kertes Ent., Inc. v. Orange Village Planning Zoning Comm.* 71 Ohio App. 3rd 151, 593 N.E.2d 306 (Ohio 85th Dist. App. 1990).

*In Judge Lehner's decision and order, dated May 24, 2002 and entered on May 31, 2002 (the "Order") (Appendix D), the Supreme Court denied petitioner leave to sue the receiver - Michael Roberts, and ordered this petitioner to pay sanctions of $500.00 to Mr. Roberts for allegedly filing a "frivolous motion".*

There is nothing frivolous about the motion seeking

leave to sue Mr. Roberts. As is shown from the record, there are serious issues concerning Mr. Robert's handling of proceeds derived from renting petitioner's apartment unit at the time he was receiver, and his inability to account for them, which have been raised herein and in the Record.

The Supreme Court may appropriately grant permission to sue a receiver, especially in a situation, such as the case here, where the funds entrusted to the receiver have been distributed. *Independence Savings Bank v. Brown*, 100 A.D.2d 613 (2nd Dept. 1984).

In this case, the extensive history manifestly demonstrates why the courts below erred in finding petitioner's instant request inappropriate, let alone "frivolous" and worthy of a sanction.

Obviously, petitioner recognizes that this is not likely the largest monetary case this Court will address. However, as this Honorable Court can plainly see from the extensive Record, Mr. Roberts with the apparent assistance of Judge Lehner, has managed to avoid answering the rather simple, but presumably very troubling and/or embarrassing question of the complete disposition of the monies entrusted to him as receiver of petitioner's apartment in 1995, and what happened to said monies between 1995 and 2000.

Regardless of petitioner's own interest in this matter, petitioner respectfully submits that this Honorable Court has an interest in maintaining the integrity of the appointment of fiduciaries by the court system.

Under the instant circumstances, where it is obvious that a so-called fiduciary appointed by the Court has not only failed

to properly and faithfully carry out his duties, but uses the Court system itself as a shield behind which he may hide to avoid accounting for his failure. This Honorable Court's intervention is warranted, and petitioner respectfully submits that Judge Lehner's decision of May 24, 2002 is incorrect.

In short, Petitioner respectfully submits that the court of Appeals of the State of New York, as well as the Supreme Courts of the State of New York arbitrarily deprived Petitioner of her due process right to Appeal her significant property rights by denying her leave to Appeal an already previous violation of her Constitutional Rights, by denying her permission to sue the Receiver, who short-changed her in rents due to her, in addition to imposing Sanctions against her for simply requesting an accounting of her rents, when none were never supplied to her.

Please see the affirmation of Petitioner's attorney - Seth Farber, substantiating the foregoing facts.

Respectfully submitted,

S/_____
Anne M. Glavey

State of New York,
Court of Appeals

*At a session of the Court ,held at Court of Appeals Hall in the City of Albany on the* thirty *day of* March 2004

Present, HON. JUDITH S. KAYE, *Chief Judge, presiding.*

---

1-10 Mo. No. 97
Dime Savings Bank of New York,
Respondent,

v.

Anne M. Glavey,
Appellant.

---

A motion for leave to appeal to the Court of Appeals in the above cause having heretofore been made upon the part of the appellant herein and papers having been submitted thereon and due deliberation having been thereupon had, it is

ORDERED, that the said motion be and the same hereby denied .

s/
Stuart M. Cohen
Clerk of the Court

State of New York
Court of Appeals

Stuart M. Cohen
Clerk of the Court

Clerk's Office
Albany, New York 11207-1095

DECISION March 30, 2004

Motion for leave to appeal denied.

1-10 Mo. No. 97

Dime Savings Bank of New York,
Respondent,

v.

Anne M. Glavey,
Appellant.

At a Term of the Appellate Division of the Supreme Court held in and for he First Judicial Department in the County of New York on December 11, 2003.

Present: Hon. John T. Buckley, Presiding Justice,
Eugene Nardelli
Angela M. Mazzarelli
Betty Weinberg Ellerin
Alfred D. Lerner, Justices.

----------X

Dime Savings Bank of New York,
Plaintiff-Respondent,

M-5158

-against- Index No. 20452/91

Anne M. Glavey,
Defendant-Appellant.

----------X

Defendant-appellant having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on October 7, 2003 (Appeal No. 1783N),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:

s/_____
Clerk.

Buckley, P.J., Nardelli, Mazzarelli, Ellerin, Lerner, JJ.

1783N Dime Savings Bank Of New York,
Plaintiff-Respondent,

Michael J. Roberts

-against-

Anne M. Glavey,
Defendant-Appellant.

Pro Se

Order, Supreme Court, New York County (Edward Lehner, J.), entered May 31, 2002, which denied defendant's motion for permission to bring suit against the receiver and granted the cross motion of plaintiff to, inter alia, impose a monetary sanction upon defendant for frivolous motion practice, unanimously affirmed, with costs.

The motion court properly determined that defendant failed to show sufficient justification to bring suit against the receiver. We note in particular that the "informal accounting" upon which defendant premises her claims of wrongdoing by the receiver, is not included in the record. In addition, since defendant signed three separate stipulations, in which she agreed to accept the receiver's informal accounting, she may now be heard to complain. The record supports the imposition of sanctions.

M-4119 -Dime Savings Bank of NY v Glavey

Motion seeking leave for enlargement of time to file reply brief denied.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: OCTOBER 7, 2003

s/
CLERK

SUPREME COURT OF THE STATE OF NEW YORK-
NEW YORK COUNTY

Part 19

Present: EDWARD H. LEHNER
*Justice*

| | | |
|---|---|---|
| Dime Savings Bank of New York | INDEX NO. | 20452/91 |
| | MOTION DATE | |
| | MOTION SEQ. NO. | 12 |
| v. | MOTION CAL. NO. | |
| Anne M. Glavey | | |

The following papers, numbered 1 to _____were read o this motion to/for _____

Notice of Motion/Order to Show Cause-Affidavits- Exhibits....
Answering Affidavits – Exhibits
Replying Affidavits

Cross-Motion: ☐ YES ☐ NO

Upon the foregoing papers, it is ordered that this motion by defendant for leave to sue the receiver is denied. Receiver Michael J. Roberts is awarded sanctions of $500 against defendant for the making of a frivolous motion, of which should be paid within ten days of service of a copy of the order. If not timely paid, Roberts may enter a judgment against defendant for said amount.

Dated: MAY 24, 2002

S/ Edward H. Lehner
J.S.C.

Check One: ☒ FINAL DISPOSITION ☐ NON-FINAL DISPOSITION

FILED
MAY 31 2002
NEW YORK
COUNTY CLERK'S OFFICE

MAYDAY INTERNATIONAL EXECUTIVE, INC.

## CONSTITUTION AND STATUTORY PROVISIONS INVOLVED

Amendment Fourteen to the United States Constitution os set forth in Appendix E.

### ARTICLE XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of the law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sections 2, 3 and 4 are omitted.

Section 5. The Congress shall have power to enforce by appropriate legislation, the provisions of this article.

At IAS Part 19 of the Supreme Court of the State of New York, County New York, at the Courthouse located at 80 Centre Street, New York, New York on the 07 day of February, 1995.

PRESENT: Hon.
Edward H. Lehner, Justice

----------X

THE DIME SAVINGS
BANK OF NEW YORK, FSB

Index No.
20452/91

Plaintiff,

ORDER APPOINTING RECEIVER IN FORECLOSURE

-against-

ANNE GLAVEY, and
THE BOARD OF
MANAGERS HARDENBROOK HOUSE
CONDOMINIUM,

Defendants.

----------X

Upon the duly verified complaint herein filed in this action in the office of the Clerk of the County of New York on the 28th day of August, 1991; upon the notice of pendency filed in the Office of the Clerk of the County of New York on August 28, 1991; upon reading and filing the annexed affidavit

of Melanie Finkel, Esq. sworn to on the 17th day of January, 1995, and it appearing to the satisfaction of the Court that this action was brought to foreclose on a first mortgage lien upon certain premises situated at 404-418 East 66th Street, New York, New York, Unit 12A, County of New York; and that mortgage lien is secured by 404-418 East 66th Street, New York, New York, Unit 12A, that in and by said mortgage it was covenanted that if default should be made in the payment of the principal sum or of the interest which should accrue thereon, at the respective times therein specified for the payment thereof, the rents and profits of the said mortgaged premises were thereby assigned to the mortgage; and is was further covenanted that the mortgage be at liberty, after any such default, upon commencement of proceedings for the foreclosure of said mortgage, to apply for he appointment of a Receiver of the rents and profits of said mortgaged premises without reference to the value of the premises; that said mortgage is in default for he non-payment of the principal amount of $109,011.32; that the mortgaged premisses are leased to a certain tenant of the Mortgagor for substantial rent ("Rents") and that, absent appointment of a Receiver, said Rents would not be applied to the reduction of the charges against the mortgaged premises; and that the appointment of a Receiver of the rents and profits of said premises is necessary for the protection of the plaintiff;

Now, on motion of Brown Raysman & Millstein, attorneys for NP Funding II L.P., the successor in interest to plaintiff herein, it is

ORDERED that Michael Roberts of 401 Broadway, New York, New York 10013 be and hereby is appointed, with the usual powers and directions, Receiver for the benefit of the plaintiff of all the rents and profits now due and unpaid or to become due during the pendency of this action and issuing out

of the mortgaged premises mentioned in the complaint and known as 404-418 East 66th Street, New York, New York, Unit 12A and is bounded and described as follows:

See Schedule "A" attached hereto; and it is further

ORDERED, that before entering upon the duties of this trust said Receiver shall execute to the People of this State and file with the Clerk of his Court an undertaking with sufficient sureties, in the penal sum of $5,833.00, conditioned for the faithful discharge of his duties as such Receiver; and it is further

ORDERED, that said Receiver be and hereby is directed to demand, collect and receive from the tenant or tenants in possession of said premises, or other persons liable therefor, all the Rents thereof now due and unpaid or hereafter to become due; and that said Receiver be and hereby is authorized to institute and carry on all legal proceedings necessary for the protection of said premises or to recover possession of the whole, or any part thereof, and to institute and prosecute suits for the collection of Rents now due or hereafter to become due, and summary proceedings for the removal of any tenant or tenants or other persons therefrom, and to employ counsel therefore; and it is further

ORDERED, that said Receiver forthwith deposit all moneys received by him at the time he receives the same in his own name as Receiver in Chemical Bank insured by the FDIC and no withdrawals shall be made therefrom except as directed by the Court or on a draft or check signed by the Receiver and countersigned by the surety on his undertaking; and the said depository shall send monthly statements of deposits in to and

withdrawals from the said account to the said Receiver and also to the attorney for the plaintiff; and it is further

ORDERED, that said Receiver be and hereby is authorized from time to time to rent or lease for terms not exceeding two years any part of said premises; to keep said premises insured against loss or damage by fire, and in repair; to pay the taxes, assessments and water rates thereon; to comply with all requirements of any municipal department or other authority of The City of New York; and to employ an agent to rent and collect the Rents of said premises and to pay the reasonable value of such agent's services out of the amounts received; and to procure such liability insurance as may be necessary; and it is further

ORDERED, that the tenants, subtenants or other persons in possession of said premises attorn to said Receiver and pay over to said Receiver all Rents of such premises now due and unpaid, or that may hereafter become due; and that during the pendency of this action all person, except the Receiver named herein, or this duly designated agent, are hereby enjoined and restrained from collecting the Rents of said premises and from interfering in any manner with the property or its possession; and that all tenants of the premises and other persons liable for the Rents be and hereby are enjoined and restrained from paying any Rents for such premises to the defendants, their agents, employees, partners, independent contractors, servants or attorneys, or to any other person other than the Receiver named herein, or his duly designated agent; and it is further

ORDERED, that all persons now or hereafter in

possession of said premises, or any part thereof, and not

holding such possession under valid and existing leases or tenancies do within surrender such possession to said Receiver subject tot he emergency rent loses, any; and it is further

ORDERED, that said Receiver, after paying the expenses of the management and care of the said mortgaged premises, retain the balance of the moneys which may come into his hands until the further order of the Court.

ORDERED, that said Receiver, or any party hereto, may at any time, on proper notice to all parties who may have appeared in this action, apply to this Court for further or other instructions or powers to enable said receiver properly to fulfill his duties; and it is further

ORDERED, that this Receivership shall continue until the further order of the Court. Also ordered that the appointed section 1325 RPAPL, Section35A of the Judiciary Law and the annexed enforcement sheet.

ENTER:

S/_____
Edward J. Lehner J.S.C.

FILED
FEB 10 1995
COUNTY CLERK'S OFFICE
NEW YORK

THE HOME INDEMNITY COMPANY

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

---

THE DIME SAVINGS BANK OF NEW YORK, FSB,

Plaintiff,

-against-

Bond No. NFB78-47-37
RECEIVER'S BOND
INDEX NO. 20452/91

ANNE M. GLAVEY, and THE BOARD OF MANAGERS HARDENBROOK HOUSE CORPORATION

Defendants.

---

KNOW ALL MEN BY THESE PRESENT:
That we, MICHAEL ROBERTS, ESQ. 401 BROADWAY , NEW YORK, NY 10013 as Principal and THE HOME INDEMNITY COMPANY, having an office and principal place of business for he State of New York, Borough of Manhattan, at 59 Maiden Lane, as Surety, are held and firmly bound unto THE PEOPLE OF THE STATE OF NEW YORK in the sum of FIVE THOUSAND EIGHT HUNDRED THIRTY THREE AND 00/100 ($5,833.00) DOLLARS lawful money of the Untied States, to which payment, well and truly to be made, the said MICHAEL ROBERTS, ESQ., binds himself, his heirs, executors and administrator and the said Surety binds itself, its successors and assigns, jointly and severally, firmly by these presents. Sealed with our seals.

Dated the 21st day of February in the year 1995.

Whereas, by an order made on the 7th day of February, 1995, by the Hon. Edward H. Lehner, of the above-entitled Court, the above named MICHAEL ROBERTS, ESQ., shall faithfully discharge the duties of his trust, and shall duly account for all monies received by him as such Receiver, then this obligation shall be void, otherwise to remain in full force and virtue.

s/ LS
MICHAEL ROBERTS, ESQ.

THE HOME INDEMNITY COMPANY

By s/_____

CAROLYN OFFENMARTZ
ATTORNEY-IN-FACT

FILED
County Clerk
N.Y. County
95 Feb 23 AM 11:20

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

---

THE DIME SAVINGS BANK OF NEW YORK, FSB
Plaintiff,

-against-

Index No. 20452/91
Bond No. NBF78-47-37

ANNE M. GLAVEY,
and THE BOARD OF
MANAGERS HARDENBROOK HOUSE
CONDOMINIUM,
Defendants.

---

STATE OF: NEW YORK

COUNTY OF: NEW YORK

I, MICHAEL ROBERTS, ESQ., 401 BROADWAY, NEW YORK, NY, 10013, duly appointed Receiver for the benefit of the Plaintiff of all rents, issues, and profit or mortgaged premises described in the Complaint in the above entitled action by order of this Court made on the 7th day of February, 1995, do swear that I will faithfully, honestly, and impartially discharge the trust committed to me as such Receiver.

S/ [L.S.]
MICHAEL ROBERTS, ESQ.

Sworn to me
this 22 day of February , 1995

s/_____
Arthur W. Greig

Notary Public, State of New York
No. 31-4731092
Qualified in New York County
Commission Expires January 31, 1997

SUPREME COURT OF THE STATE OF NEW YORK-NEW YORK COUNTY

Part 19

Present: EDWARD H. LEHNER
*Justice*

---

| | |
|---|---|
| Dime Savings Bank of New York | INDEX NO. 20452/9<br>MOTION DATE<br>MOTION SEQ. NO. 006<br>MOTION CAL. NO. |
| -against- | |
| Anne M. Glavey | |

---

The following papers, numbered 1 to _____were read o this motion to/for _____

PAPERS NUMBERED

Notice of Motion/Order to Show Cause-Affidavits- Exhibits....
Answering Affidavits – Exhibits_____
Replying Affidavits_____

Upon foregoing papers it is ordered that this motion by the defendant Anne M. Glavey for various relief is granted solely to the extent of staying the sale of the subject premises on condition that movant, on or before April 14, 1994, file with the Clerk of the court a surety bond in the sum of $25,000 or deposit cash in court of a like amount as an undertaking on appeal. Proof of such deposit or filing shall be served upon

plaintiff before 5 p.m. on April 14, 1994. Absent such deposit or filing and service the motion to stay the sale denied. All other request for relief is denied.

Dated April 8, 1994 s/_____
J.S.C

NEW YORK COUNTY
County Clerk and Clerk of the Supreme Court
COURT AND TRUST FUND RECEIPT

No. 2616 Date April 13 1994

Dime Savings Bank of N.Y.

Plaintiff

Against

Anne M. Glavey

Defendant

Cash
Type of deposit

20452-91
Clerk's Index No.

RECEIVED from Anne M. Glavey Deft.

the sum of Twenty Five Thousand ($25,000.00)

pursuant to an order of Justice Lehner dated 4/8/94

field in my office April 13 ,1994
Purpose: Undertaking to stay sale of premises

Names of persons for whose benefits deposited

Principal $25,000
Interest $ _____
Total.. $ 25,000

County Clerk and Clerk of the Supreme Court, N.Y. Co.

By S/_____
Stephen Kubiser
Cashier

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED:

ANNE M. GLAVEY,
P.O. Box 1514,
New York,
N.Y. 10009-8905.

May 3, 1995.

Mr. Michael J. Roberts,
Roberts & Roberts
Attorneys at Law,
401 Broadway,
New York
N.Y. 10013.

Re: 404 East 66th Street, Apartment 12A,
New York, N.Y. 10021.

Dear Mr. Roberts,

This is to confirm our court appearance in front of Judge Edward M. Lehner on April 21, 1995 at IAS Part 19, of the Supreme Court of the State to New York, 80 Centre Street, County of New York, on an Order to Show Cause, by which I requested to remove my property from the above apartment, after the current tenant vacates, and such relief was granted by Judge Lehner.

However, pursuant to our telephone conversation of April 28, 1995, you agreed that I may leave my property in my apartment after the current tenant leaves, and continue to rent on my own, with the rents being forwarded to you. Also, obviously, this stand to reason, as this will produce maximum

returns, both to the Plaintiff and the Defendant.

Also, I would prefer to continue paying the monthly Service Charges myself, and then be reimbursed by you. I am enclosing a copy of the check for May, 1995, which was sent to the Management Agent.

I am enclosing a copy of my Insurance Policy in reference to the above apartment. There is absolutely no need to duplicate insurance premiums. Also, you may telephone the Customer Service Number (1) 800-437-5556, which will confirm that my premiums are paid up to date. The apartment is always kept in good state of repair.

Thank you for your cooperation to this matter.

Very truly yours,
s/
Anne M. Glavey.

Enclosures:

Michael J. Roberts
Victor A. Roberts
(1911-1995)

Roberts & Roberts
Attorneys at Law
401 Broadway
New York, New York 10013

212-226-4925
212-966-6532

May 9, 1995

Anne N. Glavey
P.O. Box 1514
New York, New York 10009-8905

and

Box 837, R.R.3
Grandview Drive
Highland Lakes, NJ 07422

Re: 404 East 66th Street, Apartment 12A
New York, New York 10021

Dear Ms. Glavey:

I am in receipt of your letter dated May 3, 1995. Be advised that I severely disagree with your conclusions contained therein. I advised you on April 28, 1995, that if you found another tenant suitable for the apartment, that I would rent the apartment to him so that the profits are maximized. I also suggested that as long as the apartment was rented I had no objection to you leaving your furniture herein so that the apartment is rented "furnished". We agreed that this would maximize the income from the property and avoid the necessity

of retaining a renting agent for the purposes of leasing the premises.

Please be advised that under no conditions do I consent to you entering into a lease fort the premises with rents being forwarded to me. Any lease that is entered into with a prospective tenant [of your choice or otherwise] would be required to go through this office and be signed by myself, as receiver for the property.

I have no objection to you continuing to paying the monthly service charges.

Please be further advised that while I have no objection to you leaving the furniture in the apartment, I also have no objections to you removing the furniture.

The present tenant has indicated that he would move out in the middle of June or earlier, so if you can locate a new tenant for the premises, please so advise me. Under no circumstances should you enter into a lease directly with any prospective tenant..

I hope that you are able to refinance your apartment in the very near future.

Very truly yours,

S/_____
Michael J. Roberts

cc: Melanie Finkel, Brown Raysman & Millstein
Steven Latzman

# LEASE AGREEMENT

The Landlord and Tenant agree to lease the Premises at the Rent and for the Term stated on these terms:

| LANDLORD: | TENANT: |
|---|---|
| Anne Glavey | Mr. Jose de Diego-Arozamena |
| Box 837, R.R.3 | 404 East 66th St. Apt. 12A |
| Highland Lakes, NJ 07422 | New York, NY 10021 |

Premises: 404 East 66th St. N.Y., N.Y. 10021, Apt 12A

| | | | |
|---|---|---|---|
| Lease date: | February 1, 1995 | Term | 5 months |
| beginning | February 1, 1995 | ending | June 30, 1995 |
| Total Rent | $10,000 | Monthly Rent | $2,000 |
| Security | $ | | |

*First three months paid in advance.

1. Use

The Premises must be used to live in only and for no other reason. Only party signing this Lease, spouse and children of that party may use the Premises.

2.Failure to give possession

Landlord shall not be liable for failure to give Tenant possession of the Premises on the beginning date of the Term. Rent shall be payable as of the beginning of the Term unless Landlord is unable to give possession. In that case rent shall be payable when possession is available. Landlord will notify Tenant as to the date possession is available. The ending date of the Term will not change.

3. Rent, added rent

The rent payment for each month must be paid on the first day of that month at Landlord's Address above. Landlord need not give notice to pay the rent. Rent must be paid in full and no amount subtracted from it. The first month's rent is to be paid when Tenant signs the Lease. Tenant may be required to pay other charges to Landlord under the terms of his Lease. They are to be called "added rent." This added rent is payable as rent, together with the next monthly rent due. If Tenant fails to pay the added rent on time, Landlord shall have the same rights against Tenant as if it were a failure to pay rent.

The whole amount of rent is due and payable when this Lease is effective. Payment of rent in installments is for Tenant's convenience only. If Tenant defaults, Landlord may give notice to Tenant that Tenant may no longer pay rent in installments. The entire rent for the remaining part of the Term will then be due and payable.

4. Notices

Any bill, statement or notice must be in writing and delivered or mailed to the Tenant at the Premises and the Landlord at the Address for Notices. It will be considered delivered on the day mailed or if not mailed, when left at the proper address. Any notice must be sent by certified mail. Landlord must send Tenant written notice of Landlord changes the Address for Notices.

5. Security

Tenant has given Security to Landlord in the amount stated above. If Tenant fully complies with all the terms of this Lease, Landlord will return the security after the Term ends. If Tenant does not fully comply with the terms of this Lease,

Landlord may use the Security to pay amounts owed by Tenant, including damages. If Landlord sells the Premises, Landlord may give the Security to the buyer. Tenant will look only to the buyer for the return of the Security.

6. Utilities and services

Tenant must pay for the following utilities and services when billed: gas, electric, telephone.

7. Furnishings

If the Premises are furnished, the furniture and other furnishings are accepted "as is." If an inventory is supplied each party shall have a signed copy.

8. Repairs, alterations

Tenants must keep, and at then end of the Term return the Premises and all appliances, equipment, furniture, furnishings and other personal property clean and in good order and repair. Tenant is not responsible for ordinary wear and damage by the elements. If Tenants defaults, Landlord has the right to make repairs and charge Tenant the cost. The cost will be added rent. Tenant mut not alter, decorate, change or add to the Premises.

9. Space "as is"

Tenant has inspected the Premises. Tenant states that they are in good order and repair and take the Premises "as is."

10. Care of Premises, grounds

11. Fire, damage

Tenant must give Landlord immediate notice in case of fire or other damage to the Premises. Landlord will have the right to repair the damage within a reasonable time or cancel

this Lease. If Landlord repairs, Tenant shall pay rent only to the date of the fire or damage and shall start to pay rent again when the Premises become usable. Landlord may cancel the Lease by giving Tenant 3 days' written notice. The Term shall be over at the end of the third day and all rent shall be paid to the date of the damage.

12. Liability

Landlord is not liable for loss, expense or damage to any person or property unless it is due to Landlord's negligence. Tenant must pay for damages suffered and money spent by Landlord relating to any claim arising from any cat or neglect of Tenant. Tenant is responsible for all acts of Tenant's family, employees, guests and invites.

13. Landlord's consent

If Tenant requires Landlord's consent to any act and such consent it snot give, Tenant's only right is to ask the Court to force Landlord to give consent. Tenant agrees not to make any claim against Landlord for money or subtract any sum form the rent because such consent was not given.

14. Assignment, sublet

Tenant may not sublet all or part of the Premises, or assign the is Lease or permit any other person to use the Premises.

15. Landlord may enter, keys, signs

Landlord may at reasonable times, enter the Premises to examine, to make repairs or alterations, and to show it to possible buyers, lenders or tenants. Tenant must give to Landlord keys to all locks. Locks may not be changed or additional locks installed without Landlord's consent. Doors must be locked at all times. Windows must be locked when

Tenant is out. Landlord may place the usual "For Rent" or "For Sale" signs upon the Premises.

16. Subordination

This Lease and Tenant's rights are subject and subordinate to all present and future (a) leases for the Premises or the land on which it stands, (b) mortgages on the leases or on the Premises or on the land, (c) agreements securing money paid or to be paid by the lender, under mortgages, and (s) terms, conditions, renewals, changes of any kind in and extensions of the mortgages or leases or Lender agreements. Tenant must promptly execute any certificate (s) that Landlord requests to show that this Lease is subject and subordinate.

17. Condemnation

If all of the Premises is taken or condemned by a legal authority, the Term, and Tenant's rights shall end as of the date authority takes title to the Premises. If any part of the Premises is taken, Landlord may cancel this Lease on notice to Tenant setting forth a cancellation date not less than 30 days form the date of the notice. If the Lease is cancellation, Tenant must deliver the Premises to Landlord on the cancellation date together with all rent due to that date. The entire award for any taking belongs to Landlord. Tenant gives Landlord any interest Tenant might have to any part of the award and shall make no claim for the value of the remaining part of the Term.

18. Compliance with authorities

Tenant must, at Tenant's cost, promptly comply with all laws, orders, rules and directions of all governmental authorities, property owners associations, insurance carriers or Board of Fire Underwriters or similar group. Tenant may not do anything which may increase Landlord's insurance premiums. If Tenant does Tenant must pay the increase as

added rent.

19. Tenant's defaults and Landlord's remedies

A. Landlord may give 5 days written notice to Tenant to Tenant to correct any of the following defaults:

1. Failure to pay rent or added rent on time.

2. Improper assignment of the Lease, improper subletting all or part of the Premises, or allowing another to use the Premises.

3. Improper conduct by Tenant or other occupant of the Premises.

4. Failure to fully perform any other term in the Lease.

B. If Tenant fails to correct that defaults in section A within the 5 days, Landlord may cancel the Lease by giving Tenant a written 3 day notice stating the date the term will end. Ont hat date the term and Tenant's rights in this Lease automatically end and Tenant must leave the Premises and give Landlord the keys. Tenant continues to be responsible for rent, expenses, damages and losses.

C. If the Lease is canceled, or rent or added rent is not paid on time, or Tenant vacates the Remises, Landlord may in addition to other remedies take any of the following steps:

1. Enter the Premises and remove Tenant and any person or property;

2. Use dispossess, eviction or other lawsuit method to take back the Premises.

D. If the Lease is ended or Landlord takes back the Premises, rent and added rent for the unexpired Term becomes due and payable. Landlord may re-rent the Premises and anything in it for any Term. Landlord may re-rent for a lower rent and give allowances to the new tenant. Tenant shall be responsible for Landlord's cost of re-renting. Landlord's cost shall include the cost of repairs, decorations, broker's fees,

attorney's fees, advertising and preparation for renting. Tenant shall continue to be responsible for rent, expenses, damages, and losses. Any rent received from the re-renting shall be applied to the reduction of money Tenant owes. Tenant waives all rights to return to the Premises after possession is given to the Landlord by a Court.

20. Bankruptcy

If (1) Tenant assigns property for the benefit of creditors, (2) Tenant files a voluntary petition or an involuntary petition is filed against Tenant under any bankruptcy or insolvency law, or (3) a trustee or receiver of Tenant or Tenant's property is appointed, Landlord may give Tenant 30 days notice of cancellation of the Term of this Lease. If any of the above is not fully dismissed within the 30 days, the Term shall end as of the date stated in the notice. Tenant must continue to pay rent, damages, losses and expenses without offset.

21. Correcting tenant's default

If Tenant fails to correct a default after notice from Landlord, Landlord may correct it for Tenant at Tenant's expense. The sum Tenant must repay to Landlord will be added rent.

22. Waiver of jury, counterclaim, set off

Landlord and Tenant waive trial by a jury in any matter which comes up between the parties under or because of this Lease (except for a personal injury or property damage claim). In a proceeding to get possession of the Premises, Tenant shall not have the right to make a counterclaim or set off.

23. Written instructions

Landlord has given or may give written instructions

about the care and use of the appliances, equipment and other personal property on the Premises, Tenant must obey the instructions.

24. Broker

25. Landlord unable to perform

Landlord has given or may give written instructions about the care and use of the appliances, equipment and other personal property on the Premises, Tenant must obey the instructions.

26. Illegality

If any part of this Lease is not legal, the rest of the Lease will be unaffected.

27. No waiver

Landlord failure to enforce any terms of this Lease shall not prevent Landlord from enforcing such terms at a later time.

28. Quiet enjoyment

Landlord agrees that if Tenant pays the rent and is not in default under this Lease, Tenant may peaceably and quietly have, hold and enjoy the Premises for the Term of this Lease.

29. Successors

This Lease is binding on all parties who lawfully succeed to the rights or take the place of the Landlord or Tenant.

30. Representations, changes in Lease

Tenant has read this Lease. All promises made by the Landlord are in this Lease. There are no others. This Lease may be changed only by an agreement in writing signed by and

delivered to each party.

31. Paragraph headings

The Paragraph headings are for convenience only.

32. Effective date

This Lease is effective when Landlord delivers to Tenant a copy signed by all parties.

Rider Additional terms on .....pages(s) initialed at the end by the parties is attached and made a part of this Lease.

Signatures The parties have entered into this Lease on the date first above stated.

LANDLORD: TENANT:

s/_____ s/_____

Aine Glavey

WITNESS:

_____



★

91

February 7 19 95

1-1/210 95

Pay to the Order of AINE GLAVEY

$ 6,000.00

-SIX thousand DOLLARS

CITIBANK

CITIBANK, N.A. BR. 996
787 MADISON AVENUE AT 65TH STREET
NEW YORK, NY 10021

CITIBANK

Dollars

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1ST 3 Months Land

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depositary
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BEST AVAILABLE COPY

APARTMENT LEASE
ATTACHED RIDER SETS FORTH RIGHTS AND OBLIGATIONS OF TENANTS AND LANDLORDS UNDER THE RENT STABILIZATION LAW. (LOS DERECHOS Y RESPONSABILIDADES DE INQUILINOS Y CASEROS ESTAN DISPONIBLE EN ESPANOL.)

The Landlord and Tenant agree as of 1995 to lease the Apartment as follows:

LANDLORD:
MICHAEL J. ROBERTS, RECEIVER

TENANTS:
JACQUELINE DRUCKER

Address of Notices 401 Broadway, New York, NY 10013

Apartment (and terrace, if any 12-A at 404 East 66th Street, New York, NY 10021

Bank ----------

Term 3 ½ months
beginning June 13 1995
ending September 30, 1995
Yearly Rent $2,400.00
Monthly Rent $2,000.00
Security $2,000.00

1. Use The Apartment must be used only as a private Apartment to live in as the primary residence of the Tenant and

for no other reason. Only a party signing this Lease may use the Apartment. The Apartment is subject to limits on the number of people who may legally occupy an Apartment of this size.

2. Failure to give possession Landlord shall not be liable for failure to give Tenant possession of the Apartment on the beginning date of the Term. Rent shall be payable as of the beginning of the Term unless Landlord is unable to give possession. Rent shall hen be payable as of the date possession is available. Landlord must give possession within a reasonable time. If not, Tenant may cancel and obtain a refund of money deposited. Landlord will notify Tenant as to the date possession is available. The ending date of the Term will not change.

3. Rent, added rent The rent payment for each month must be paid on the first day of that month at Landlord need not give notice to pay the rent. Rent must be paid in full without deduction. The first month's rent is to be paid when Tenant signs this Lease. Tenant may be required to pay other charges to Landlord under the terms of this Lease. They are called "added rent." This added rent with will be billed and is payable as rent, together with the next monthly rent due. If Tenant fails to pay the added rent on time, Landlord shall have the same rights against Tenant as if Tenant failed to pay rent. If a check from Tenant to Landlord bounces. Tenant shall be charged $25 for processing costs as added rent. If rent or added rent is not received within 5 days of the due date. Landlord may charge the tenant a late fee of (1) $25, or (2) 1 ½ % of the sum due, each month, as added rent.

4. Notices Any bill, statement or notices must be in writing. If to Tenant, it must be delivered or mailed to the Tenant at the

Apartment. If to Landlord it must be mailed to the Landlord's address. It will be considered delivered on the day mailed or if not mailed, when left at the proper address. A notice must be sent by certified mail. Each party must accept and claim the notice given by other. Landlord must notify Tenant if Landlord's address is changed. Tenant must notify Landlord if Tenant joins the U.S. Military or becomes dependent on someone in it.

5. Security Tenant has given security to Landlord in the amount stated above. The security has been deposited in the Bank named above and delivery of this Lease is notice of the deposit. If the Bank is not named, Landlord notify Tenant of the Bank's name and address in which the security is deposited.

If Tenant does not pay rent or added rent on time, Landlord may just the security to pay for rent and added rent then due. If Tenant fails to timely perform any other term in this Lease, Landlord may use the security for payment of money Landlord may spend, or damages Landlord suffers because of Tenant's failure. If the Landlord uses the security, Tenant shall, upon notice Landlord, send to Landlord an amount equal to the sum used by Landlord. The amount is due, when billed, as rent. At all times Landlord is to have the amount of security stated above.

If Tenant fully performs all terms of this Lease, pays rent on time and leaves the Apartment in good condition on the last day of the Term, then Landlord is to have the amount of security stated above.

If Landlord sells or leases the Building, Landlord may give the security to the buyer or lessee. In that event Tenant will look only to the buyer or lessee for the return f the security and Landlord will be deemed released. Landlord may use the security as stated in this section. Landlord may put the security in any place permitted by law. Tenant's security will bear

interest only if required by law. Landlord will give Tenant the interest when Landlord is required by law. Landlord will give Tenant the interest when Landlord is required to return the security to Tenant. Any interest returned to Tenant will be less the sum Landlord is allowed to keep. Landlord need not give Tenant interest on the security if Tenant is in default.

6. Service Landlord will supply:(a) heat as required by law, (b) hot and cold water for bathroom and kitchen sink, (c) use of elevator, if any, and (d) cooling if central air conditioning is installed. Landlord is not required to install air-conditioning. Stopping or reducing of services(s) will not be reason for Tenant to stop paying rent, to make a money claim or to claim eviction. Tenant may enforce its rights under the warranty of habitability. Damage to the equipment or appliances supplied by Landlord, caused by Tenant's act or neglect, may be repaired by Landlord at Tenant's expense. The repair cost will be added to rent.

Tenant must pay for all electric, gas, telephone and other utility services used in the Apartment and arrange for hem with the public utility company. Tenant must not use a dishwasher, washing machine, dryer, freezer, heater, ventilator, air cooling equipment or other appliance unless installed by Landlord or with Landlord's written consent. Tenant must not use more electric than the wiring or feeders to the Building can safely carry.

Landlord may stop service of the plumbing, heating, elevator, air cooling or electrical systems, because of accident, emergency, repairs, or changes until the work is complete.

If Landlord wants to change a person operated elevator to an automatic elevator. Landlord may stop service on 10 days' notice. Landlord will then have a reasonable time to begin installation of an automatic type elevator.

7. Alteration Tenant must obtain Landlord's prior written consent to install any paneling, flooring, "built in" decorations, partitions, railings, or make alterations or to paint or wallpaper the Apartment. Tenant must not change the plumbing, ventilating, air conditioning, electric or heating systems. If consent is given, the alterations and installations shall be completed and paid for by Tenant. They shall remain with and as part of the apartment at the end of the Term. Landlord has the right to demand that Tenant remove the alterations and installations before the end of the Term. Tenant shall comply with the demand at Tenant's own cost. Landlord is not required to do or pay for any work unless stated in the Lease.

If a lien is filed on the Apartment or Building for any reason relating to Tenant's fault. Tenant must immediately pay or bond the amount stated in the Lien. Landlord may do so if Tenant fails within 20 days after Tenant has notice about the Lien. Landlord's costs shall be added rent.

8. Repairs Tenant must take good are of the Apartment and all equipment and fixtures in it. Landlord will repair the plumbing, heating and electrical systems. Tenant must at Tenant's cost, make all repairs and replacements whenever the need results from Tenant's act or neglect. If Tenant fails to make a needed repair or replacement, Landlord may do it. Landlord's reasonable expense will be added rent.

9. Fire, accidents, defects, damage Tenant must give Landlord immediate notices of fire, accident, damage or dangerous or defective condition. If the Apartment can not be used because of fire or other casualty. Tenant is not required to pay rent for the time the Apartment is unusable. If part of the Apartment can be used, Tenant must pay rent for the unuseable part. Landlord shall have the right to decide which part of the Apartment is usable. Landlord need only repair the damaged

part of the Apartment. Landlord is not required to repair or replace any fixtures, furnishings or decorations but only equipment that is originally installed by Landlord. Landlord is not responsible for delays due to settling insurance claims, obtaining estimates, labor and supply problems or any other cause not fully under Landlord's control.

If the apartment can be used, Landlord has 30 days to decide whether to repair it. Landlord's decision to repair must be given by notice to tenant within 30 days of the fire or casualty. Landlord shall have a reasonable time to repair. In determining what is a reasonable time, consideration shall be given to any delays in receipt of insurance settlements, labor trouble and causes not fully within Landlord's control. If Landlord fails to give Tenant notice of its decision within 30 days, Tenant may cancel the lease as of the date of the fire or casualty. The cancellation shall be effective only if its given before Landlord begins to repair or before Landlord notifies Tenant its decision to repair. If the fire or other casualty is caused by an act or neglect of Tenant or guest of Tenant all repairs will be made at Tenant's expense and Tenant must pay the full rent with no change. The cost of the repairs will be added rent.

Landlord has the right to demolish or rebuild the Building if there is substantial damage by fire or other casualty. Even if the Apartment is not damaged, Landlord may cancel this Lease within 30 days after the substantial fire or casualty. This Section is intended to replace the terms of Real Property Law § 227.

10. Liability Landlord is not liable for loss, expense, or damage to any person or property, unless Landlord is negligent. Landlord is not liable to Tenant for permitting or refusing entry of anyone into the Building.

Tenant must pay for damages suffered and reasonable expenses of Landlord relating to any claim arising from any act or neglect of Tenant. If Landlord relating to any claim arising from Tenant's act or neglect Tenant shall defend Landlord at Tenant's expense with an attorney of Landlord's choice.

Tenant is responsible for all acts or neglect of Tenant's family, employees, guests or invitee.

11. Entry by Landlord Landlord may enter the Apartment at reasonable hours to: repair, inspect, exterminate, install or work on master antennas or other systems or equipment and perform other work that Landlord decides is necessary or desirable. At reasonable hours Landlord may show the Apartment to possible buyers, lenders, or tenants f the entire Building or land. At reasonable hours Landlord may show the Apartment to possible or new tenants during the last 4 months of the Term. Entry by Landlord must be on reasonable notice except in emergency.

12. Assignment and sublease Tenant must not assign all or part of this Lease or sublet all or part of the American or permit any other to use the Apartment. If Tenant does, Landlord may cancel the Lease as stated in the Tenant's Default section. State law may permit Tenant to sublet under certain conditions. Tenant must get Landlord's written permission each time Tenant wants to assign or sublet. Permission to assign or sublet is good only for that assignment or sublease. Tenant remains bound to the terms of this lease after an assignment or sublet is permitted, even if Landlord accepts money from the assignee or subtenant. The amount accepted will be credited toward money due from tenant, as Landlord shall determine,. The assignee or subtenant does not become Landlord's tenant. Tenant is responsible for acts and neglect of any person in the Apartment.

13. Subordination This Lease and Tenant's rights, are subject and subordinate to all present and future: (a) leases for the Buildings or the underlying land, (b) mortgages on the leases or the Building or land, (c) agreements securing money paid or to be paid by a lender, and (d) terms, conditions, renewals, changes of any kind and extensions of the mortgages, leases or lender agreements. Tenant must promptly execute any certificate(s) that Landlord requests to show that this Lease is so subject and subordinate. Tenant authorizes Landlord to sign these certificate(s) for Tenant.

14. Condemnation If all of the Apartment or Buildings is take or condemned by a legal authority, the Term, and Tenant's rights shall end as of *** to Landlord any interest Tenant may have to any ***. Tenant shall make no claim for the value of the *** of the Term.

15. *** duty to obey laws and regulations Tenants must at Tenant's ***, promptly comply with all laws, orders, rules, requests, and directions, of all governmental authorities, Landlord's insurers, Board of Fire Underwriters, or similar groups. Notices received by Tenant from any authority or group must be promptly delivered to Landlord. Tenant may not do anything which may increase Landlord's insurance in premium as added rent.

16. Tenant's default A. Landlord must give Tenant written notice of default stating the type of default. The following are defaults and must be cured by Tenant within the time stated:
(1) Failure to pay rent or added rent on time, 5 days.
(2) Failure to move into the Apartment within 15 days after the beginning date of the Term, 10 days.
(3) Issuance of a court order under which the Apartment may be taken by another party, 10 days.

(4) Improper conduct by Tenant annoying other tenants, 10 days.
(5) Failure to comply with any other term or Rule in the Lease, 10 days. If Tenant fails to cure the default in the time stated, or violates Section 16B. Landlord may cancel the Lease by giving Tenant a cancellation notice. The less than 10 days after the date of the notice. The cancellation notice will state the date the Term will end which may be no less than 10 days after the date of the notice. On the cancellation date in the notice the Term of this Lease shall end. Tenant must leave the Apartment continues to be responsible as stated in this Lease. If the default can not be cured in the time stated, Tenant must begin to cure within that time and continue diligently until cured.
B. If (1) Tenant's application for the Apartment contains any material misstatement of fact, (2) Tenant maintains a nuisance, or (3) Tenant vacates the Apartment, Landlord may cancel this Lease. Cancellation shall be by cancellation notice as stated in Section 16A.
C. If (1) the Lease is canceled; or (2) rent or added rent is not paid not time; or (3) Tenant vacates the Apartment, Landlord may, in addition to other remedies, take any of the following steps: (a) peacefully enter the Apartment and remove Tenant and any person or property, and (b) use eviction or other lawsuit method to take back the Apartment.
D. If this Lease is canceled, or Landlord takes back the Apartment, , the following takes place:
(1) Rent added rent for the unexpired Term is due and payable.
(2) Landlord may relet the Apartment and anything in it. The reletting may be for any term. Landlord may charge any rent or not rent and give allowances to the new tenant. Landlord may, at Tenant's expense, do any work Landlord reasonably feels needed to put the Apartment in good repair and prepare it for renting. Tenants stays liable and is not released except as provided by law.

(3) Any rent received by Landlord for the re-renting shall be used first to pay Landlord's expenses and second to pay any amounts Tenant owes under this Lease. Landlord 's expense include the costs of getting possession and re-renting the Apartment, including, but not only reasonable legal fees, brokers fees, cleaning and repairing costs, decorating costs and advertising costs.
(4) From time to time Landlord may bring actions for damages. Delay or failure to bring an action shall not be a waiver of Landlord's rights. Tenant is not entitled to any excess of rents collected over the paid by Tenant to Landlord under this Lease.
(5) If Landlord relets the Apartment combined with other space an adjustment will be made based on square feet. Money received by Landlord from the next tenant other than the monthly rent, shall not be considered as part of the rent paid to Landlord. Landlord is entitled to all of it. If Landlord relets the Apartment the fact that all or part of the next tenant's rent is not collected does not affect Tenant's liability. Landlord has no duty to collect the next tenant's rent. Tenant must continue to pay rent, damages, losses and expenses without offset.
E. If Landlord takes possession of the Apartment by Court order, or under the Lease, Tenant has not right to return the Apartment.

17. Jury trial and counterclaims Landlord and Tenant agree not to use their right to a Trial by Jury in any action or proceeding brought by either, against the other, for any matter concerning this Lease or the Apartment. This dies not include actions for personal injury or property damage. Tenant gives up any right to bring a counterclaim or set-off in any action or proceeding by Landlord against Tenant on any matter directly or indirectly relate tot his Lease or Apartment.

18. No waiver, illegality Landlord's acceptance of rent or failure to enforce any term in this Lease is not a waiver of any of Landlord's rights. If a term in this Lease is illegal, the rest of this lease remains in full force.

19. Insolvency If (1) Tenant assigns property for the benefit of creditors, or (2) a non-bankruptcy trustee or receiver of Tenant or Tenant's property is appointed. Landlord may give Tenant 30 days notice of cancellation of the Term of this Lease. If any of the above is not fully dismissed within the 30 days, the Term shall end on the date stated in the notice. Tenant must continue to pay rent, damages, losses and expenses without offset. If Tenant files a voluntary bankruptcy petition is filed against Tenant, Landlord may not end this Lease.

20. Rules Tenant must comply with these Rules. Notice of new Rules will be given to Tenant. Landlord need not enforce Rules against other Tenants. Landlord is not liable to Tenant if another tenant violates these Rules. Tenant receives no rights under these Rules:
(3) Tenant may not operate manual elevators. Smoking is not permitted in elevators. Messengers and trade people must only usé service elevators and service entrances. Bicycles are not allowed on passenger elevators.
(4) Tenant must give to Landlord keys to all locks. Doors must be locked at all times. Windows must be locked when Tenant is out.
(5) Apartment floors must be covered by carpets or rugs. No waterbeds allowed in Apartments.
(6) Dogs, cats or other pets are not allowed in the Apartment or Building.
(7) Garbage disposal rules must be followed. Wash lines, vents and plumbing fixtures must be used for their intended purpose.
(8) Laundry machines, if any, are used at Tenant's risk and cost.

Instructions must be followed.
(9) Moving furniture, fixtures or equipment must be scheduled with Landlord. Tenant must not send Landlord's employees on errands.
(10) Wrongly parked cars may be removed without notice a Tenant's cost, the Apartment or Building from the outside.
(12) Tenant shall conserve energy.

21. Representations, changes in Lease Tenant has read this Lease. All promises made by the Landlord are in this Lease. There are not others. This Lease may be changed only by an agreement in writing signed by and delivered to each party. Tenant is not in the U.S. Military nor dependent on someone who is.

22. Landlord unable to perform If due to labor trouble, government order, lack of supply, Tenant's act or neglect, or any other cause not fully within Landlord's reasonable control. Landlord is delayed or unable to (a) carry out any of Landlord's promises or agreements, (b) supply any service required to be supplied, (c) make any required repair or change in the Apartment or Building, (d) supply any equipment or appliances Landlord is required to supply, this Lease shall not be ended or Tenant's obligations affected.

23. End of Term At the end of the Term, Tenant must: leave the Apartment clean and in good condition, subject to ordinary wear and tear; remove all of Tenant's property and all Tenant's installations and decorations; repair all damages to the Apartment and Building caused by moving ; and restore the Apartment to its condition at the beginning of the Term. If the last day of the Term shall end on the prior business day.

24. Space "as is" Tenant has inspected the Apartment and Building. Tenant states they are in good order and repair and takes the Apartment as is except for latent defects.

25. Landlord's warranty of habitability Landlord states that the Apartment and Building are fit for human living and there is not condition dangerous to health, life or safety.

26. Landlord's consent If Tenant requires Landlord's consent to any act and such consent is not given, Tenant's only right is to ask the Court for a declaratory judgment to force Landlord to give consent. Tenant agrees not to make any claim against Landlord for money or subtract any sum from the rent because such consent was not given.

27. Legal Fees The successful party in a legal action or proceeding between Landlord an Tenant for non-payment of rent or recovery of possession of the Apartment may recover reasonable legal fees and costs form the other party.

28. Limit of recovery Tenant is limited to Landlord's interest in the Building for payment of a judgment or other court remedy against Landlord.

29. Lease binding on This Lease is binding on Landlord, Tenant and their heirs, distributees, executors, administrators, successors and assigns.

30. Landlord Landlord means the owner (Building or Apartment), lessee of the Building, or a lender in possession. Landlord's obligations end when Landlord's interest in the Building or Apartment is transferred. Any acts Landlord may do may be done by Landlord's agents or employees.

31. Paragraph headings Paragraph headings are for convenience only.

32. Rent regulations This section applies if the Apartment is subject to the N.Y.C. Rent Stabilization Law and Code or the Emergency Tenant Protection Act.
(1) Landlord may have proper cause to apply to the Division of Housing and Community Renewal (DHCR) for assistance. If Landlord does apply and is found to be entitled to an increase in rent or other aid, the Landlord and Tenant agree:

(a) To be bound by the determination of the DHCR,

(b) Tenant will pay any rent increase in the manner set by the DHCR,

(c) Despite anything contained in Paragraphs1a and b, it is agreed in the event that an order is issued increasing the stabilization rent because of Landlord hardship, the Tenant may, within 30 days of receipt of a copy of the DHCR order, cancel this Lease on 60 days written notice to the Landlord. During the period prior to vacating, the canceling Tenant may continue in occupancy at no increase in rent.
(2) The rent provided for in this Lease may be increased or decreased retroactively to the commencement of the Lease to conform to the lawful Rent Guidelines or any changes in the Guidelines or any changes in the Guidelines which apply to this Lease as issued by the N.Y.C. Rent Guidelines Board or appropriate county rent guidelines board.
(3) This Lease and all riders shall continue in full force and effect, and except as modified above, shall in no way be affected by this section.

Rider Additional terms on 2 pages (s) initialed at the end by the parties is attached and made a part of this Lease.

Signatures, effective date Landlord and Tenant have signed this Lease as of the above date. It is effective when Landlord delivers to Tenant a copy signed by all parties.

s/_____
JACQUELINE DRUCKER

WITNESS

_____

s/_____
MICHAEL J. ROBERTS, RECEIVER

38. The parties shave decided not to seek the Board of Managers' waiver of its right of first refusal. The parties indemnify and hold harmless each other and Feathered Nest,

Inc. And its agents from the consequences of the failure to obtain Board of Managers' waiver of is right of first refusal. It is agreed that any dispute concerning this Agreement must be submitted it binding arbitration by the American Arbitration Association.

By: s/_____
JACQUELINE DRUCKER, TENANT

By: s/_____
MICHAEL J. ROBERTS, RECEIVER

RIDER TO AGREEMENT OF LEASE("LEASE')
MADE AS OF JUNE , 1995
between
MICHAEL J. ROBERTS, RECEIVER
(hereinafter referred to as "Landlord" or "Owner")
and
JACQUELINE DRUCKER
(hereinafter referred to as "TENANT")

THIS RIDER IS INTENDED TO BE AFFIXED TO THE LEASE. IN THE EVENT OF ANY INCONSISTENCIES BETWEEN THE PROVISIONS OF THIS RIDER AND THE PRINTED PORTION OF THIS LEASE, THE PROVISIONS OF THIS RIDER SHALL CONTROL.

33. The Con Edison and cable television accounts will be paid by Jacqueline Drucker. The Telephone account will be paid by Jacqueline Drucker.

34. The security deposit ($2,000.00) shall be held by Michael J. Roberts, Receiver and will be returned to Jacqueline Drucker at the conclusion of this Agreement, after all charges in item number 33, above have been paid, and provided that the apartment is vacated in the same condition as when rented, except for normal wear and tear.

35. It is agreed that Michael J. Roberts, Receiver may have the apartment shown to prospective tenants/purchasers, by appointment only, during the final thirty (30) days of this Agreement, by giving Jacqueline Drucker reasonable advance notice.

36. Michael J. Roberts, Receiver will have the apartment cleaned prior to Jacqueline Drucker taking occupancy.

37. An inventory of the furnishings to be executed by Michael J. Roberts, Receiver and Jacqueline Drucker shall be attached to and will form a part of this Agreement.

# STANDARD FORM OF APARTMENT LEASE
# THE REAL ESTATE BOARD OF NEW YORK INC.

PREAMBLE: This lease contains the agreements between You and Owner concerning Your rights and obligations and the rights and obligations of Owner. You and Owner have other rights and obligations which are set forth in government law and regulations.

You should read this Lease and all of its attached parts carefully. If You have any questions, or if You do not understand any words or statements, get clarification. Once You and Owner sign this Lease You and Owner will be presumed to have read it and understood it. You and Owner admit that all agreements between You and Owner have been written into this Lease. You understand that any agreements made before or after his this Lease was signed and not written into it will not be enforceable.

THIS LEASE is made on September 28, 1995 between
Owner, Michael Roberts, as Receiver
whose address is _____
and You, the Tenant,Saziment Arolat
whose address is _____

1. APARTMENT AND USE

Owner agrees to lease to You Apartment 12A on the 12th floor in the Building at 404 East 66th Street Borough of Manhattan, City and State of New York.

You shall use the Apartment for living purposes only. The Apartment may be occupied by the tenant or tenants named above and by immediate family of the tenant or tenants and by occupants as defined in and only accordance with Real Property Law §235-f.

2. LENGTH OF LEASE

The term (that means the length) of this Lease is zero (0) years, one (1) months fifteen (15) days, beginning on October 1, 1995 and ending on November 15, 1995. If you do not do everything You agree to do in this Lease, Owner may have the right to end it before the above date. If Owner does not do everything that owner agrees to do in this Lease, You may have the right to end the Lease before ending date.

3. RENT

You monthly rent for the Apartment is $ 2,000.00 (two thousand dollars). You must pay Owner the rent, in advance, on the first day of each month either at Owner's office or at another place that Owner may inform You and by written notice. You must pay the first month's rent to Owner when You sign the Lease if the lease begins on the first day of the month. If the Lease begins after the first day of the month, You must pay when you sign this lease(l) the part of the rent from the beginning date of his Lease until the last day of the month and (2)the full rent for the next full calendar month. If his Lease is a Renewal Lease, the rent for the first month of his Lease need not be paid until the first day of the month when the renewal term begins.

5. Security Deposit

You are required to give Owner to sum of $2,000.00 when You signs this Lease as a security deposit, which is called in law a trust. Owner will deposit this security in _____ bank at _____. If the Building contains six or more apartments, the bank account will earn interest. If You carry out all of your agreements In this Lease, at the end of each calendar year Owner or the bank will pay to Owner 1% interest on the deposit for administrative costs and

to You all other interest earned on the security deposit.

If you carry out all of your agreements in this Lease and if You move out of the Apartment and return it to Owner in the same condition it was in when You first occupied it, except for ordinary wear and tear or damage caused by fire or other casualty, Owner will return to You the full amount of your security deposit and interest to which You are entitled within 60 days after this Lease ends. However, if You do not carry out all your agreements in this Lease, Owner may keep all or part of your security deposit and any interest which has not yet been paid to You necessary to pay Owner for any losses incurred, including missed payments.

If Owner sells or leases the building, Owner will turn over our security, with interest, either to You or to the person buying or leasing (lessee) the building within 5 days after the sale or lease. Owner will then notify You, by registered or certified mail, of the name and address of the person or company to whom the deposit has been turned over. In such case, Owner will have no further responsibility to You for the security deposit. The new owner or lessee will become responsible to You for the security deposit.

6. IF YOU ARE UNABLE TO MOVE IN

A situation could arise which might prevent Owner from letting You move into the Apartment on the beginning date set in this Lease. If this happens for reasons beyond Owner's reasonable control, Owner will not be responsible for Your damages, expenses, and this Lease will remain in effect. However, in such case, this lease will start on the date when You can move in, and the ending date in Article 2 will be changed to a date reflecting the full term of years set forth in Article 2. You will not have to pay rent until the move-in date Owner gives You by written notice, or the date You move in, whichever is earlier. If Owner does not give You notice that the

move-in date is within 30 days after the beginning date of the term of this Lease as stated in Article 2. You may tell Owner in writing that Owner has 15 additional days to let You move in, or else the Lease will end. If Owner does not allow You to move in within those additional 15 days, then the Lease is ended. Any money paid by You on account of this Lease will then be refunded promptly by Owner.

7. CAPTIONS

In any dispute arising under this Lease, in the event of a conflict between the text and a caption, the text controls.

8. WARRANTY OF HABITABILITY

A. All of the sections of this Lease are subject to th4e provisions of the Warranty of Habitability Law in the form it may have from time to time during this Lease. Noting in this Lease can be interpreted to mean that You have give up any of your rights under that law. Under that law, Owner agrees that the Apartment and the Building are fir for human habitation and that there will be no conditions which will be detrimental to life, health or safety.

B. You will do nothing to interfere or make more difficult Owner's efforts to provide You and all other occupant of the Building with required facilities and services. Any condition caused by your misconduct or the misconduct of anyone under your direction or control shall not be a breach by Owner.

9. CARE OF YOUR APARTMENT-END OF LEASE - MOVING OUT

A. You will take good care of the apartment and will not permit or do any damage to it, except for damage which occurs through ordinary wear and tear. You will move out on or before the ending date or this lease and leave the Apartment

in good order and in the same conditions it was when You first occupied it., except for ordinary wear and tear and damage caused by fire or casualty.

B. When this Lease ends, You must remove all of your movable property. You must also remove at your won expense, any wall covering, bookcases, cabinets, mirrors, painted murals or any other installation or any other attachments You may have installed int the Apartment, even if it was done with Owner's consent. You must restore and repair to its original conditions those portions of the Apartment affected by those installations and removals. You have not moved out until all persons, furniture and other property of yours is also out of the Apartment. If you property remains int eh Apartment after the Lease ends, Owner may either treat You as a till in occupancy and charge You for use, or may consider that You have given up the Apartment and any property remaining in the Apartment. In this event, Owner may either discard the property or store it at your expense. You agree to pay owner for all costs and expense incurred in removing such property. The provisions of this article will continue to be in effect after the end of this Lease.

10. CHANGES AND ALTERATIONS TO APARTMENT

You cannot build in, add to, change or alter, the Apartment in any way , including wallpapering, painting, repainting, or other decorating, without getting Owner's written consent before You do anything. Without Owner's prior written consent. You cannot install or use in the Apartment any of the following: dishwasher machines, clothes washing or drying machines, electric stoves, garbage disposal units, heating, ventilating or aid conditioning units or nay other electrical equipment which, in Owner's reasonable opinion, will overload the existing wiring installation in the Building or Interfere with the use of such electrical wiring facilities by other

tenants of the Building. Also, You cannot place in the Apartment water-filled furniture.

11. YOUR DUTY TO OBEY AND COMPLY WITH LAWS, REGULATIONS AND LEASE RULES

A. Government Laws and Orders. You will obey and comply (1) with all present and future city, state and federal laws and regulations, which affect the Apartment and the Building. You will not allow any windows in the Apartment to be cleaned from the outside, unless the equipment and safety devices required by law are used.

B. Owner's Rules Affecting You. You will obey all Owner's rules listed in this Lease and future reasonable rules of Owner or Owner's agent. Notice of all additional rules shall be delivered to You in writing or posted in the lobby or other public place in the building, Owner shall not be responsible to You for not enforcing any rules, regulations or provisions or another tenant's lease except to the extent required by law.

C. Your Responsibility. You are responsible for the behavior of yourself, of your immediate family, your servants and people who are visiting You. You will reimburse Owner as additional rent upon demand for the cost of all losses, damages fines and reasonable legal expenses incurred by Owner because You, members of your immediate family, servants or people visiting You have not obeyed government laws and orders of the agreements or rules of this Lease.

12. OBJECTIONABLE CONDUCT

As a tenant in the Building, You will not engage in objectionable conduct. Objectionable conduct means behavior which makes or will make the Apartment or the Building less fit to live in for You or other occupants. It also means anything which interferes with the right of others to properly and peacefully enjoy their Apartments, or causes conditions that are

dangerous, hazardous, unsanitary and detrimental to other tenants in the Building. Objectionable conduct by You gives Owner the right to end this Lease.

13. SERVICES AND FACILITIES

A. Required Services. Owner will provide cold and hot water and heat as required by law, repairs to the Apartment, as required by law, elevator service if the Building has elevator equipment; and the utilities, if any, included in the rent, as set forth in sub-paragraph B. You are not entitled to any rent reduction because of a stoppage or reduction of any of the above services unless it is provided by law.

B. The following utilities are included in the rent_____

C. Electricity and Other Utilities. I f Owner provides electricity or gas and the charge is included in the rent on Page 1, or if You buy electricity or gas from Owner for a separate (submetered) charge, your obligations are described in the Rider attached to this Lease. If electricity or gas is not included in the rent or is not charged separately by Owner,, You must arrange for this service directly with the utility company. You must also pay directly for telephone service if it is not included in the rent.

D. Appliances. Appliances supplied by Owner in the Apartment are for your use. They will be maintained and repaired or replaced by Owner, but if repairs or replacement are made necessary because of your negligence or misuse, You will pay Owner for the cost of such repair or replacement as additional rent.

E. Elevator Service. If the elevator is the kind that requires an employee of Owner to operate it, Owner may end his service without reducing the rent if: (1) Owner gives You 10 days notice that his service will end; and (2) within a reasonable time after the end of this 10-day notice, Owner begins to

substitute an automatic control type of elevator and proceeds diligently with is installation.

F. Storeroom Use. If Owner permits You to use any storeroom, laundry or any other facility located in the building but outside of the Apartment, the use of this storeroom or facility will be furnished to You free of charge and at your won risk, except for loss suffered by You due to Owner's negligence. You will operate at your expense any coins operated appliances located in such storerooms or laundries.

14. INABILITY TO PROVIDE SERVICES

Because of a strike, labor, trouble, national emergency, repairs, or any other cause beyond Owner's reasonable control, Owner not may be able to provide or may be delayed in providing any services on in making any repairs to the Building.

***, of these events, any rights You may have against Owner are only those rights which are allowed by laws in effect when the reduction in service occurs.

15. ENTRY TO APARTMENT

During reasonable house and with reasonable notice, except in emergencies, Owner may enter the Apartment for the following reasons:

(A) To erect, use and maintain pipes and conduits in and through the walls and ceilings of the Apartment; to inspect he Apartment and to make any necessary repairs or changes Owner decided are necessary. Your rent will not be reduced because of any of this work, unless required by Law.

(B) To show the Apartment to persons who may wish to become owners or lessees of the entire Building or may be interested in lending money to Owner;

(C) For four months before the end of the Lease, to show the Apartment to persons who wish to rent it;

(D) If during the last month of the Lease You have moved out and removed all or almost all of your property from the Apartment, Owner may enter to make changes, repairs, or redecoration. Your rent will not be reduced for that month and this Lease will not e ended by Owner's entry.

(E) If at any time You are not personally present to permit Owner or Owner's representative to enter the Apartment and entry is necessary or allowed by law or under this lease, Owner or Owner's representatives may nevertheless enter the Apartment. Owner may enter by force in an emergency. Owner will not be responsible to You, unless during this entry, Owner or Owner's representatives is negligent or misuses your property.

16. ASSIGNING; SUBLETTING; ABANDONMENT

(a) Assigning and Subletting. You cannot assign this Lease or sublet the Apartment without Owner's advance written consent in each instance to a request made by You in the manner required by Real Property Law §226-b. Owner may refuse to consent to a lease assignment for any reason or no reason, but it Owner unreasonably refuses to consent to request for a Lease assignment properly made, at your request in writing, Owner will end his Lease effective as of thirty days after your request. The first and every other time you wish to sublet the Apartment, You must get the written consent of Owner unless Owner may unreasonably withholds consent following your request to sublet in the manner provided by Real Property Law §226.b. Owner may impose a reasonable credit check fee on You in connection with an application to assign or sublet. If You fail to pay your rent Owner may collect rent from subtenant or occupant without releasing You from the Lease. Owner will credit the amount collected against the rent due

from You. However, Owner's acceptance of such rent does not change the status of the subtenant or occupant to that of direct tenant of Owner and does not release You form this Lease.

(b)Abandonment. If You move out of the Apartment (abandonment) before the end of his Lease without the consent of Owner, this Lease will not be ended (except as provided by law following Owner's unreasonable refusal to consent to an assignment or subletting requested by You.) You will remain responsibility for each monthly payment of rent as if becomes due until the end of this Lease. In case of abandonment, your responsibility for rent will end only if Owner chooses to end this Leases for default as provided in Article 17.

17. DEFAULT

(1) You default under the Lease if You act in any of the following ways:

(A) You fail to carry out any agreement or provision of this Lease

(b) You or another occupant of the Apartment behaves in an objectionable manner;

(c) You do not take possession or move into the Apartment 15 days after the beginning of this Lease;

(d) You and other legal possession or move into the Apartment move out permanently before his Lease ends;

If You do default in any one of these ways, other than a default in the agreement to pay rent, Owner may serve You with a written notice to stop or correct the specified default within 10 days. You must then either stop or correct the default within 10 days, or, if You need more than 10 days, You must begin to correct the default within 10 days and continue to do all that is necessary to correct the default as soon as possible.

(2) If You do not stop or begin to correct a default within 10 days, Owner may give You a second written notice

that this Lease will end six days after the date the second written notice is sent to You. At the end of the 6-days period, this Lease will end. You then must move out of the Apartment. Even though this Lease ends, You will remain liable to owner to Owner after that time as stated in Article 18.

(3) If You do not pay your rent when this Lease requires after a personal demand for rent has been made, or within three days after a statutory written demand for rent has been made, or if the Lease ends, Owner may do the following:(a) enter the apartment and retake possession of it if You have moved out; or (b) go to court and ask that You and all other occupants in the Apartment be compelled to move out.

Once this Lease has been ended, whether because of default or otherwise, You give up any right You might otherwise have to reinstate or renew the Lease.

18. REMEDIES OF OWNER AND YOUR LIABILITY

If this Lease is ended by Owner because of your default, the following are the rights and obligations of You and Owner.

(a) You must pay your rent until this Lease has ended. Thereafter, You must pay an equal amount for what the law calls "use and occupancy" until You actually move out.

(b) Once You are out, Owner may re-rent the Apartment or any portion of it for a period of time which may end before or after the ending date of this Lease. Owner may re-rent to a new tenant at a lesser rent or may charge a higher rent than the rent in this Lease.

(c) Whether the Apartment is re-rented or not, You must pay to Owner as damages:

(1) the difference between the rent in this Lease and the amount, if any, of the rents collected in any later lease or leases of the Apartment for what would have been the remaining period of his Lease; and

(2) Owner's expenses for advertisements,

broker's fees and the cost of putting the Apartment in good condition for re-rental; and

*** (3) Owner's expenses for attorney's fees.

(d) You shall pay all damages due in monthly installments on the rent day established in this Lease. Any legal action brought to collect one or more monthly installments of damages shall not prejudice in any way Owner's right to collect the damages for a later month by a similar action. If the rent collected by Owner from a subsequent tenant of the Apartment is more than the unpaid rent and damages which You owe Owner, You cannot receive the difference. Owner's failure to re-rent to another tenant will not release or change your liability for damages, unless the failure is due to Owner's deliberate inaction.

19. ADDITIONAL OWNER REMEDIES

If You do not do everything You have agreed to do, or if You do anything which shows that You intend not to do what You have agreed to do , Owner has the right to ask a Court to make Your carry out your agreement or to give the Owner such other relief as the Court can provide. This is in addition to the remedies in Article 17 and 18 of this lease.

20. FEES AND EXPENSES

A. Owner's Right. You must reimburse Owner for any of the following fees and expenses incurred by Owner; or persons who live with You, visit You, or work for You;
*** This may be detected.

28. NO WAIVER OF LEASE PROVISIONS

A. Even if Owner accepts your rent or fails once or more often to take action or Owner's acceptance of rent does not prevent Owner from taking action at a later date if You again do not do what You have agreed to do.

B. Only a written agreement between You and Owner can waive any violation of this Lease.

C. If You pay and Owner accepts an amount less than all the rent due, the amount received shall be considered to be in payment of all or a part of the earliest rent due. It will not be considered an agreement by owner to accept this lesser amount in full satisfaction of all of the rent due.

D. Any agreement to end this Lease and also to and the rights and obligations of You and Owner must be in writing, signed by You and Owner or Owner's agent. Even if You give keys to the Apartment and they are accepted by any employee, or agent, or Owner, this Lease is not ended.

29. CONDITION OF THE APARTMENT

When You sign this Lease, You did not rely on anything said by Owner, Owner's agent or superintendent about the physical condition of the Apartment, the Building or the land which it is built. You did not rely on any promises as to what would be done, unless what was said or promised is written in this Lease and signed by both You and Owner or found in Owner's floor plans or brochure shown to You before You signed the Lease. Before signing this Lease, You have inspected the apartment and You accept it in its present condition "as is," except for any condition which You could not reasonablely have seen during your inspection. You agree that Owner has not promised to do any work in the Apartment except as specified in attached "Work" rider.

PLEASE SEE THE ATTACHED RIDER WHICH FORMS A PART OF THIS LEASE AGREEMENT

31. DEFINITIONS

A. Owner: The term "Owner" means the person or

organization receiving or entitled to receive rent from You for the Apartment at any particular time other than a rent collector or managing agent of Owner. "Owner" includes the owner of the land or Building, a lessor, or sublessor of the land or Building and a mortgagee in possession. It does not include a former owner, even if the former owner signed this Lease.

B. You: The Term "You" means that person or persons signing this Lease as Tenant and the successors and assigns of the signer. This Lease has established a tenant-landlord relationship between You and owner.

32. SUCCESSOR INTERESTS

The agreements in this Lease shall be binding on Owner and You and on those who succeed to the interest of Owner or You by law, by approved assignment or by transfer.

Owners rules - a part of this lease - see page 6

TO CONFIRM OUT AGREEMENTS, OWNER AND YOU RESPECTIVELY SIGN THIS LEASE AS OF THE DAY AND YEAR FIRST WRITTEN ON PAGE 1.

Witnesses

_____

_____

_____

S/_____[L.S.]

Owner' Signature Michael Roberts, as Receiver

_____[L.S.]

Tenant's Signature Saziment Arolat

_____[L.S.]
Tenant's Signature

GUARANTY

The undersigned Guarantor guarantees to Owner the strict performance of and observance by Tenant of all the agreements, provisions and rules in the attached Lease, Guarantor agrees to waive all notices when Tenant is not paying rent or not observing and complying with all of the provisions of the attached Lease. Grantor agrees to be equally liable with Tenant so that Owner may sue Guarantor directly without first suing Tenant. The Guarantor further agrees that his guaranty shall remain full effect even if the Lease is renewed, changed or extended in any way and even if Owner has to make a claim against Guarantor. Owner and Guarantor agree to waive trial by jury in any action, proceeding or counterclaim brought against the other on any matters concerning that attached Lease or the Guaranty.

Dated, New York City

_____ Witness

_____Guarantor

_____Address

Apartment 12A

Premises 404 East 66th Street
New York, New York 10021

Tenant Saziment Arolat

Expires November 15, 1995

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STANDARD FORM OF APARTMENT LEASE
The Real Estate Board of New York, Inc.

ATTACHED RULES WHICH ARE A PART OF THE LEASE AS PROVIDED BY ARTICLE 11

Public Access Ways

1. (a) Tenants shall not block or leave anything minor on fire escapes, the sidewalks, entrances, driveways, elevators stairways, or halls. Public access ways shall be used only for entering and leaving the Apartment and the Building. Only those elevators and passageways designated by Owner can be used for deliveries.

(b) Baby carriages, bicycles or other property of Tenants shall not be allowed to stand in the halls, passageways, public areas or courts of the Buildings.

Bathroom and Plumbing Fixtures

(1) The bathrooms, toilets and wash closets and plumbing fixtures shall only be used for the purposes for which they ere designed or built; sweepings, rubbish bags, acids or other substances shall not be placed in them.

Refuse

3. Carpets, rugs or other articles shall not be hung or shaken out of any window of the Building. Tenants shall not sweep or throw or permit to be swept or thrown any dirt, garbage or other substances our of the windows or into any of the halls, elevators elevator shafts. Tenants shall not place any

articles outside of the Apartment or outside of the building except in safe containers and only at places chosen by Owner.

Elevators

4. All non-automatic passenger and service elevators shall be operated only by employees of Owner and must not in any event be interfered with by Tenants. The service elevators, if any, shall be used by servants, messengers and trades people for entering and leaving, and the passenger elevators, if any, shall not be sued by them for any purpose, Nurses with children, however, may use the passenger elevators.

Laundry

5. Laundry and drying apparatus, if any, shall be used by Tenants in the manner and at the times that the superintendent of other representative of Owner may direct. Tenants shall not dry or air clothes on the roof.

Keys and Locks

6. Owner may retain a pass key to the apartment. Tenants may install on the entrance of the Apartment an additional lock of not more than three inches in circumference, Tenants may also install a lock on any window but only in the manner provided by law. Immediately upon making any installation of either type, Tenants shall notify Owner or Owner's agent and shall give Owner or Owner's agent a duplicate key. If changes are made to the locks or mechanism installed by Tenants, Tenants must deliver keys to Owner. At the end of this Lease, Tenants must return to owner all keys either furnished or otherwise obtained. If Tenants lose or fail to return any keys which were furnished to them. Tenants shall pay Owner the cost of replacing them.

**Noise**

7. Tenants, their families, guests, employees, or visitors shall not make or permit any disturbing noises n the Apartment or Building or permit anything to be done that will interfere with the rights, comforts or convenience of other tenants. Also,

Tenants shall not play a musical instrument or operate or allow to be operated a phonograph, radio or television set so as to disturb or annoy any other occupant of the Building.

No Projections

8. An aerial may not be erected on the roof or outside wall of the Building without the written consent of Owner, Also, awnings or other projections shall not be attached to the outside walls of the Building or to any balcony or terrace.

No Pets

9. Dogs or animals of any kind shall not be kept or harbored in the Apartment, unless in each instance it be expressly permitted in writing by Owner. This consent, if given, can be taken back by Owner at any time for good cause on reasonablely given notice. Unless carried or on a leash, a dog shall not be permitted on any passenger elevator or in any public portion of the building. Also, dogs are not permitted on any grass or garden plot under any condition. BECAUSE OF THE HEALTH HAZARD AND POSSIBLE DISTURBANCE OF OTHER TENANTS WHICH ARISE FROM THE UNCONTROLLED PRESENCE OF ANIMALS, ESPECIALLY DOGS, IN THE BUILDING, THE STRICT ADHERENCE TO THE PROVISIONS OF THE RULE BY EACH TENANT IS A MATERIAL REQUIREMENT OF EACH LEASE. TENANTS' FAILURE TO OBEY THIS RULE SHALL BE CONSIDERED A SERIOUS VIOLATION OF AN IMPORTANT OBLIGATION BY TENANT UNDER THIS LEASE. OWNER MAY ELECT TO END THIS LEASE BASED UPON THIS VIOLATION.

Moving

10. Tenants can use the elevator to move furniture and possessions only on designated days and hours. Owner shall not be liable for any costs, expenses or damages incurred by Tenants in moving because of delays caused by the unavailability of the elevator.

Floors

11. Apartment floors shall be covered with rugs or carpeting to the extent of at least 80% of the floor area of each room excepting only kitchens, pantries, bathrooms and hallways. The tacking strop for wall-to-wall carpeting will be glued, not nailed to the floor.

Window Guards

12. IT IS VIOLATION OF LAW TO REFUSE, INTERFERE WITH INSTALLATION, OR REMOVE WINDOW GUARDS WHERE REQUIRED. (SEE ATTACHED WINDOW GUARD RIDER)

# RIDER TO LEASE BETWEEN MICHAEL ROBERTS, AS RECEIVER AND SAZIMENT AROLAT, TENANT, FOR APARTMENT #12A AT 404 EAST 66TH STREET, NEW YORK CITY NEW YORK DATED SEPTEMBER 28, 1995

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1) A lease is legally binding document. You may wish to have an attorney review this document before signing it. No representations or agreements by agents, brokers or others are binding on the Landlord or on any Agent unless included in the written lease.

2) Feathered Nest is representing the Tenant in this transaction.

3) The Building is organized as a Condominium. Michael Roberts is the Receiver for the Apartment.

4) The Tenant shall prepay the sum of five thousand dollars ($5,000) representing the term's rent ($3,000) and security deposit ($2,000).

5) The Receiver represents that all appliances and fixtures in the apartment shall be in proper working condition at the commencement of this Agreement. The Receiver shall be responsible to repair any appliances which malfunctions due to normal wear and tear.

6.) The Tenant is responsible for paying all charges for the Con Edison, telephone and cable television (if any) accounts during the term of this Agreement.

7) It is agreed that the apartment may be shown to

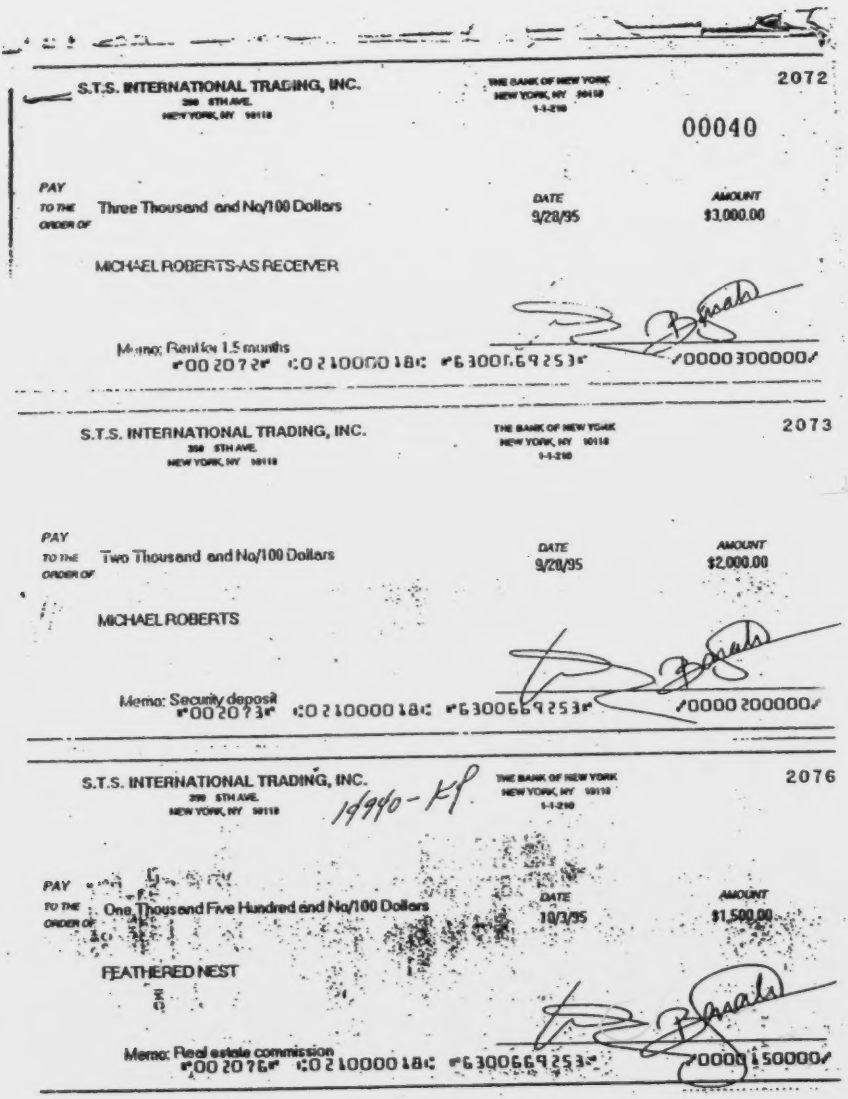
prospective tenants/purchasers, by appointment only, during the final week of this Agreement, by giving the Tenant reasonable advance notice.

8) The Tenant is leasing the apartment as a furnished unit. An inventory of the furnishings, to be executed by both parties shall be attached to and will form a part of this Agreement.

9) It is agreed that any dispute concerning this Agreement must be submitted to binding arbitration by the American Arbitration Association.

10) By signing below, you acknowledge receipt of a copy of this document.

| | |
|---|---|
| s/ _____ | _____ |
| Michael Roberts, as Receiver | Date |
| s/ _____ | 9/29/95 |
| Saziment Arolat, Tenant | Date |



S.T.S. INTERNATIONAL TRADING, INC.
350 5TH AVE.
NEW YORK, NY 10118

THE BANK OF NEW YORK
NEW YORK, NY 10118
1-1-210

2072

00040

PAY TO THE ORDER OF Three Thousand and No/100 Dollars

DATE 9/28/95

AMOUNT $3,000.00

MICHAEL ROBERTS-AS RECEIVER

Memo: Rent for 1.5 months

⑈00 2072⑈ ⑆021000018⑆ ⑈6300669253⑈ /0000300000/

S.T.S. INTERNATIONAL TRADING, INC.
350 5TH AVE.
NEW YORK, NY 10118

THE BANK OF NEW YORK
NEW YORK, NY 10118
1-1-210

2073

PAY TO THE ORDER OF Two Thousand and No/100 Dollars

DATE 9/28/95

AMOUNT $2,000.00

MICHAEL ROBERTS

Memo: Security deposit

⑈00 2073⑈ ⑆021000018⑆ ⑈6300669253⑈ /0000200000/

S.T.S. INTERNATIONAL TRADING, INC.
350 5TH AVE.
NEW YORK, NY 10118

14940-KF

THE BANK OF NEW YORK
NEW YORK, NY 10118
1-1-210

2076

PAY TO THE ORDER OF One Thousand Five Hundred and No/100 Dollars

DATE 10/3/95

AMOUNT $1,500.00

FEATHERED NEST

Memo: Real estate commission

⑈00 2076⑈ ⑆021000018⑆ ⑈6300669253⑈ /0000150000/

WESTERN UNION | EASY PAY

**Substitute Payment Receipt**

Area Code 212

Telephone Number 472-6676

Account Number: 944 728

AMOUNT 271.15

271.15
182.99
454.14

NYNEX PMT CENTER
Z10261 U637
12/05/95 16:39
2124726676
944728
PAID $271.15 CASH

NYNEX

Account number 212 472-6676 944 728
Billing date November 13,1995

**This Is A Final Disconnection Notice**

To avoid inconvenience, please bring it to the attention of the company when paying this bill.

| | |
|---|---|
| Total amount overdue | $271.15 |
| Due date | November 27, 1995 |
| Payments through | November 16, 1995 |

Service to JACQUELINE DRUCKER
APT 12A
406 E 66 ST
NEW YORK NY
10021-6902

NYNEX

Account number
212 472-6676 944 728
Billing date October 22, 1995

** Duplicate Billing Information **

Total amount due $271.15

Payment is due on November 16, 1995

Amount enclosed $ .

Please make your check payable to NYNEX and write your account number on check.

JACQUELINE DRUCKER
APT 12A
406 E 66 ST
NEW YORK NY
10021-6902

Q51

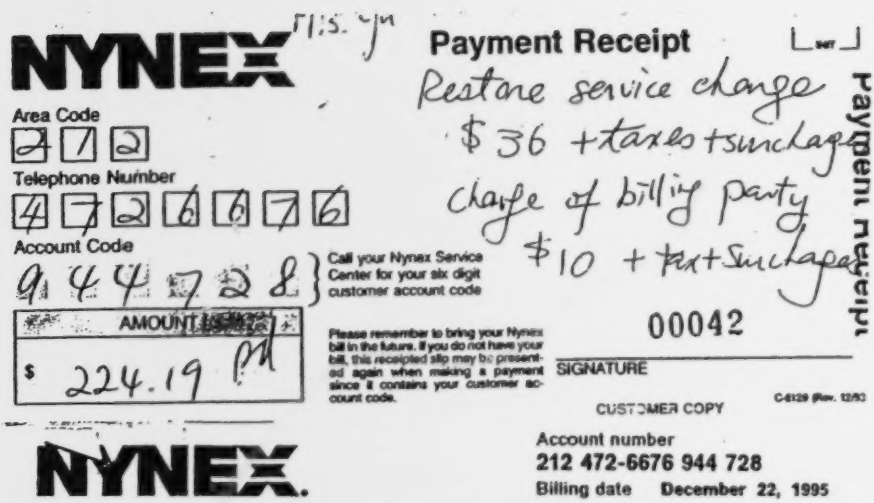
NYNEX
P O BOX 1100
ALBANY NY 12250-0001

Q51

02002124726676944072110 9 95380000003624000000271500

Please detach and return the above with your payment. Thank you for your payment by mail. See your phone book for correspondence addresses and payment locations. If paying in person bring this entire page with you.

Account number 212 472-6676 944 728



NYNEX

Payment Receipt

Restore service charge
$36 + taxes + surcharge
charge of billing party
$10 + tax + surcharge

Area Code 212
Telephone Number 472-6676
Account Code 944 728

Call your Nynex Service Center for your six digit customer account code

AMOUNT ENCLOSED
$ 224.19

Please remember to bring your Nynex bill in the future. If you do not have your bill, this receipted slip may be presented again when making a payment since it contains your customer account code.

00042

SIGNATURE

CUSTOMER COPY

C-6129 (Rev. 12/93)

Payment Receipt

NYNEX

Account number
212 472-6676 944 728
Billing date December 22, 1995

** Duplicate Billing Information **

Total amount due $224.19

Payment is due on January 16, 1996

Amount enclosed $ .

Please make your check payable to NYNEX and write your account number on check.

JACQUELINE DRUCKER
P O BOX 1514
NEW YORK NY
10009-8905

Q51

MLK

Q51

NYNEX
P O BOX 1100
ALBANY NY 12250-0001

02002124726676944072110 9 000000000018299000000224190 7

Please detach and return the above with your payment. Thank you for your payment by mail. See your phone book for correspondence addresses and payment locations. If paying in person bring this entire page with you.

NYNEX

Account number 212 472-6676 944 728
Billing date December 22, 1995

## Summary of account

| | |
|---|---|
| **Previous charges and credits** | |
| Amount of last bill | $454.14 |
| Payments through Dec 27. Thank you | 271.15CR |
| Amount past due | $182.99 |
| **Current charges** | |
| Late payment charge | $2.47 |
| NYNEX | 28.82 |
| AT&T | 9.91 |
| Total current charges | $41.20 |
| **Total amount due** | $224.19 |

Payment is due on January 16, 1996

- A prior month's balance is past due, a late payment charge has been assessed.
- To avoid a 1.5% late payment charge, your payment must be received by January 22, 1996.
- Questions about your bill? Please call the individual company involved. Phone numbers for each company are listed on the summary page for that company.

Service to JACQUELINE DRUCKER
P O BOX 1514
NEW YORK NY
10009-8905

MLK

CABLE OF NEW YORK CITY

TIME WARNER CABLE OF NEW YORK CITY
120 EAST 23RD ST NEW YORK, NY
10010-4567 8150 1000 -2189

MC D7 27

DATE DECEMBER 27, 1995

ACCT # 10 001 8082999

USE ENCLOSED ENVELOPE AND MAKE PAYMENT TO

| AMOUNT DUE | DATE DUE | AMOUNT ENCLOSED |
|---|---|---|
| $70.74 | ON RECEIPT | $ . |

PLEASE DETACH AND ENCLOSE TOP PORTION WITH PAYMENT

TIME WARNER CABLE OF NYC
PO BOX 7659
PHILADELPHIA, PA 19101-7659

ANNE GLAVEY
PO BOX 1514
NEW YORK NY 10009-8905

8150100018082999000070748

00043

DID YOU FORGET LAST MONTH'S BILL? YOUR ACCT IS 30 DAYS PAST DUE. PLEASE AVOID A $5.00 LATE FEE & PAY WITHIN 15 DAYS.

FOR 504 E 6TH ST APT 12A SERVICE NEW YORK NY 10021-9313

| ACCOUNT NUMBER | SERVICE FROM | SERVICE TO | DATE DUE |
|---|---|---|---|
| 10 001 8082999 | JANUARY 07, 1996 | FEBRUARY 06, 1996 | ON RECEIPT |

| DATE | SERVICE/TRANSACTION DESCRIPTION | AMOUNT |
|---|---|---|
| | PREVIOUS BALANCE | 43.46 |
| | BASIC SERVICE | 11.61 |
| | CONVERTER | 3.28 |
| | REMOTE CONTROL | 0.25 |
| | STANDARD SERVICE | 12.10 |
| | FCC REGULATORY FEE | 0.04 |
| | | $70.74 |

WATCH "
PAY-PER-VIE
CHANNELS 58,
ENTER THE
CHANCE

11.61
12.10
3.71

DATE
ACCOUNT NUMBER
CASH
CHECK
CHARGE
RECEIVED
SUBSCRIBER NAME
PREPARED BY
PAYMENT RECEIPT

ALL PAYMENTS OR PPV CHARGES RECORDED AT

| PREVIOUS BALANCE | | PAYMENTS THANK YOU | | | | AMOUNT DUE |
|---|---|---|---|---|---|---|
| 43.46 | - | 0.00 | + | | = | $70.74 |

AN AMOUNT

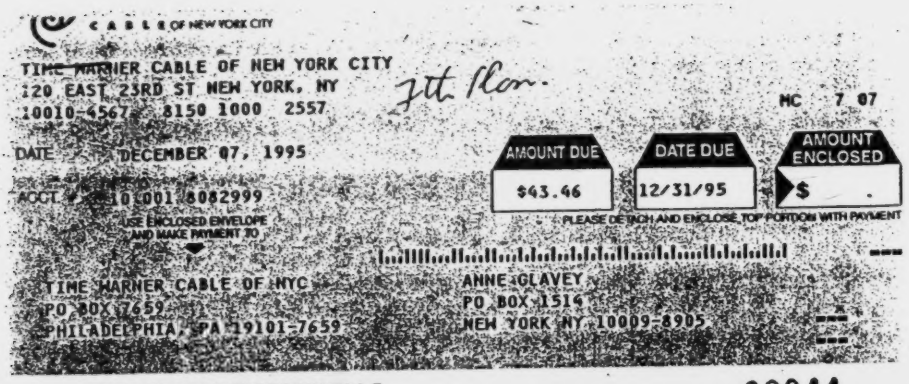
TIME WARNER CA
YOUR FAMILY A HAPP

38

IN ACCORDANCE WITH THE CABLE TELEVISION FRANCHISE FEE AND ADDITIONAL SUPPORT FOR PUBLIC ACCESS PROGRAMMING

NEW YORK AS A LATION ADMINISTER FORMATION

BEST AVAILABLE COPY



CABLE OF NEW YORK CITY

TIME WARNER CABLE OF NEW YORK CITY
120 EAST 23RD ST NEW YORK, NY
10010-4567 8150 1000 2557

7th Flor.

MC 7 07

DATE DECEMBER 07, 1995

| AMOUNT DUE | DATE DUE | AMOUNT ENCLOSED |
|---|---|---|
| $43.46 | 12/31/95 | $ . |

ACCT # 10 001 8082999

USE ENCLOSED ENVELOPE AND MAKE PAYMENT TO

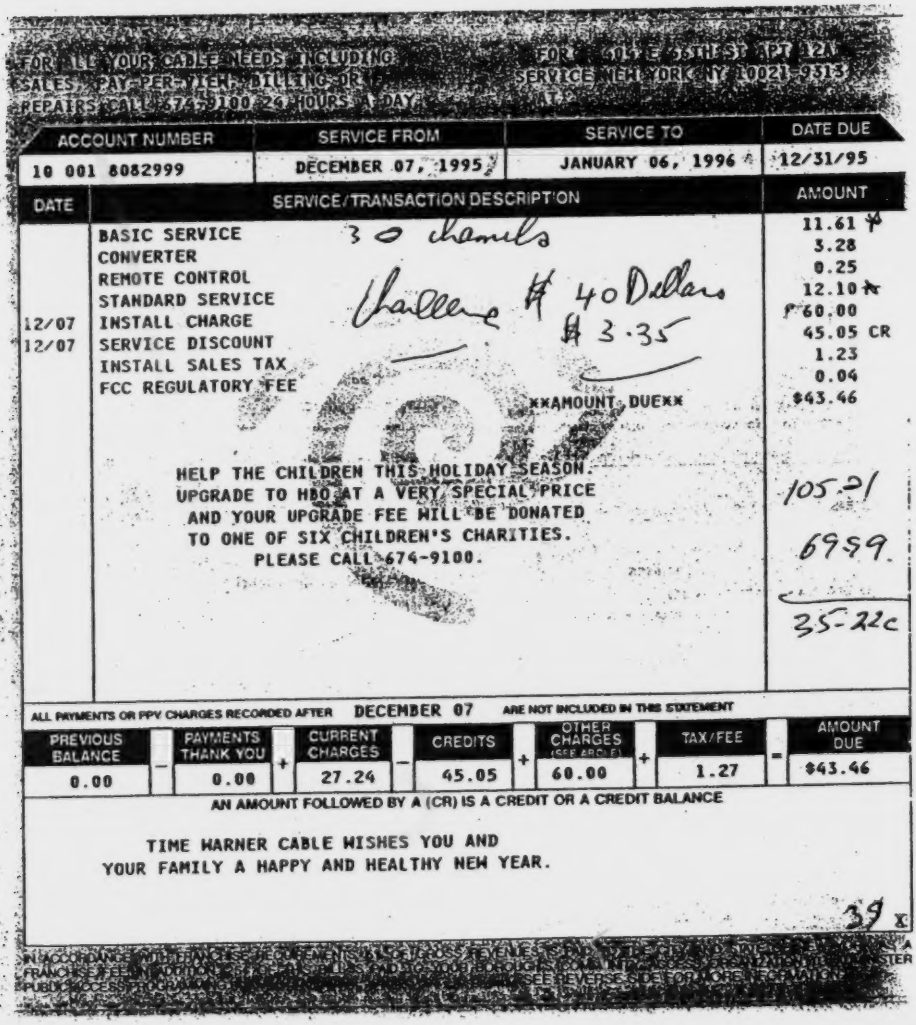
PLEASE DETACH AND ENCLOSE TOP PORTION WITH PAYMENT

TIME WARNER CABLE OF NYC
PO BOX 7659
PHILADELPHIA, PA 19101-7659

ANNE GLAVEY
PO BOX 1514
NEW YORK NY 10009-8905

8150100018082999000043463

00044



FOR ALL YOUR CABLE NEEDS INCLUDING SALES, PAY-PER-VIEW, BILLING OR REPAIRS, CALL 674-9100 24 HOURS A DAY.

FOR 40 E 65TH ST APT 12A
SERVICE NEW YORK NY 10021-9313
AT

| ACCOUNT NUMBER | SERVICE FROM | SERVICE TO | DATE DUE |
|---|---|---|---|
| 10 001 8082999 | DECEMBER 07, 1995 | JANUARY 06, 1996 | 12/31/95 |

| DATE | SERVICE/TRANSACTION DESCRIPTION | AMOUNT |
|---|---|---|
| | BASIC SERVICE | 11.61 |
| | CONVERTER | 3.28 |
| | REMOTE CONTROL | 0.25 |
| | STANDARD SERVICE | 12.10 |
| 12/07 | INSTALL CHARGE | 60.00 |
| 12/07 | SERVICE DISCOUNT | 45.05 CR |
| | INSTALL SALES TAX | 1.23 |
| | FCC REGULATORY FEE | 0.04 |
| | **AMOUNT DUE** | $43.46 |

30 channels

Charlene # 40 Dollars
# 3.35

HELP THE CHILDREN THIS HOLIDAY SEASON.
UPGRADE TO HBO AT A VERY SPECIAL PRICE
AND YOUR UPGRADE FEE WILL BE DONATED
TO ONE OF SIX CHILDREN'S CHARITIES.
PLEASE CALL 674-9100.

105.21
69.99
35.22c

ALL PAYMENTS OR PPV CHARGES RECORDED AFTER DECEMBER 07 ARE NOT INCLUDED IN THIS STATEMENT

| PREVIOUS BALANCE | − | PAYMENTS THANK YOU | + | CURRENT CHARGES | − | CREDITS | + | OTHER CHARGES (SEE BELOW) | + | TAX/FEE | = | AMOUNT DUE |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 0.00 | | 0.00 | | 27.24 | | 45.05 | | 60.00 | | 1.27 | | $43.46 |

AN AMOUNT FOLLOWED BY A (CR) IS A CREDIT OR A CREDIT BALANCE

TIME WARNER CABLE WISHES YOU AND
YOUR FAMILY A HAPPY AND HEALTHY NEW YEAR.

39 x

IN ACCORDANCE WITH FINANCE AGREEMENT, A PORTION OF GROSS REVENUES AND OTHER CHARGES ARE PAID TO A FRANCHISE FEE IN ADDITION TO [illegible] AND YOUR BOROUGH PRESIDENT IN SUPPORT OF PUBLIC ACCESS PROGRAMMING. SEE REVERSE SIDE FOR MORE INFORMATION

Con Edison conserve energy

51 44

**CR 018

JACQUELINE DRUCKER
404 E 66 ST 12A
NEW YORK NY 10021-9313

Amount now due

$227.05

Payment due upon receipt of this bill
TURN-OFF 12/29

JAF STATION
PO BOX 1702
NY NY 10116-1702

M 56 42200700690012S 80000003405 80000022705 M

Detach here when paying by mail - bring entire bill when paying in person.

00045

| Your account number | Next reading date | For service and billing information call |
|---|---|---|
| 42-2007-0069-0012-5 | JAN 10, 1996 | 212-338-3000 |

51 Service to: JACQUELINE DRUCKER
at: 404 E 66 ST 12A

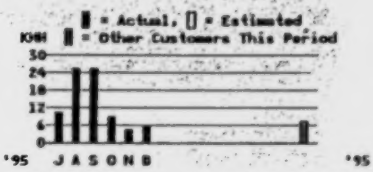
**ELECTRIC USE - RATE EL1 RESIDENTIAL**

| | |
|---|---|
| 12/11/95 reading (Actual)..... | 2671 |
| 11/07/95 reading (Actual)..... | -2488 |
| Total KWH used in 34 days..... | 183 |

**CHARGES FOR ELECTRICITY USED**

| | | |
|---|---|---|
| Basic service charge: (does not include usage) | | $6.33 |
| | KWH COST/KWH | |
| First | 183.0 @ 14.1803¢ | 25.95 |
| Fuel adjustment @ | .2514¢ | .46 |
| Sales tax @ 4.000% | | 1.31 |
| **CURRENT ELECTRIC CHARGES** | | **$34.05** |

**AVERAGE DAILY ELECTRIC USE**




**BILLING SUMMARY AS OF 12/12/95**

| | |
|---|---|
| Amount due last bill... | $193.00 |
| Payments through 12/08 | NONE |
| Balance remaining..... | $193.00 |
| CURRENT ELEC CHARGES... | $34.05 |
| **TOTAL AMOUNT NOW DUE...** | **$227.05** |

**IMPORTANT MESSAGES**

## THIS IS A FINAL TURN-OFF NOTICE.

**PLEASE BRING IT TO OUR ATTENTION WHEN PAYING THIS BILL.**

We are sorry, but your service will be turned off unless an overdue amount of $193.00 plus a deposit of $140 is received by DEC 29,1995.
We currently pay 5.75% interest per year on deposits.
A notice explaining your rights is enclosed.

AINE GLAVEY,
P.O. BOX 1514
NEW YORK,
N.Y. 10009-8905.

February 20, 1998

Mr. Seth Farber,
Attorney at Law,
Mas E. Greenberg, Trager, Toplitz & Herbst,
100 Church St.,
New York,
N.Y. 10007.

Dear Seth,

Firstly, I am enclosing the Receipt for the $25,000 deposited with the County Clerk of the Supreme Court.

I also enclosing copies of relevant documents regarding the Receiver.

Mr. Roberts took over Receivership on May 1, 1995, therefore from the first Lease of February 1, 1995 to June 30, 1995, he is holding the amount of $4000. That tenant paid his own utilities.

Next Lease is from June 13, 1995 to September 30, 1995, at a rate of $2000 per month, which equals $7000. He is also holding $2000 Deposit from that tenant. Actually, he should be responsible for my loss of rent for two weeks, for $1000. I never had a lapse in tenancy.

He is holding $3000 rent for the third tenant. He is also holding $2000 deposit.

Therefore, the totals of rent Mr. Roberts is holding is $14,000.

The last two tenants were responsible for utilities. The second tenant - Drucker never disconnected her telephone, and I had now authorization to do so. Since all of the rentals were short term, it was necessary to have a working telephone and Cable T.V. So, I ended up having to pay the bills, which should of course, have come from the Deposits Mr. Roberts is holding.

| | |
|---|---|
| Telephone , October 22, 1995: | $271.15. |
| " , December 22, 1995: | $224.19. |
| Cable T.V. | $ 70.74 |
| Cable connection, because bill not paid: | $ 60.00 |
| Con Edison: | $227.05 |
| | $853.13 |

Also, again I lost $1000 for two weeks rent from November 1, 1995 to November 15, 1995, due to the problems with the phone.

I wrote Mr. Roberts a number of letters, requesting cooperation with the deposits and the payments of the utilities, all to no avail. Certified Mail cost me approximately $10.00, and Court costs about $8.68.

Of course, none of his includes aggravation and time out from work.

Therefore, the following amount are due and owing:

| | |
|---|---|
| Rent: ..... | $14,000.00 |
| Utilities: ..... | $00,853.13 |
| | $14,853.13 |

| | |
|---|---|
| He holds on deposit: ..... | $ 4,000. |
| If I am entitled to the two weeks x 2 loss of rental, due to his negligence: ..... | $ 2,000. |
| Certified Mail & Court costs: | 18.68. |

Seth, when you make the Motion, please specify that it is so that eventually I can pay off the Mortgage, and not to be turned over the Trustee, or United Mortgage.

Thanks again for your help.

Yours Sincerely,
s/_____
Aine Glavey.

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED:

ANNE M. GLAVEY

Grandview Drive,
Highland Lakes,
New Jersey, 07422

December 8, 1995

Mr. Michael Roberts,
Roberts & Roberts,
Attorneys at Law,
401 Broadway,
New York, N.Y. 10013.

Re: Apartment 12A, 404 East 66th Street,
New York, N.Y. 10009-8905.

Dear Mr. Roberts,

I refer to the above apartment and of which you have been Receiver.

The last tenant who occupied the apartment whose name was a Mrs. Saziment Arolat from Istanbul, Turkey, continually attempts to get her Security Deposit returned. Apparently, Mrs. Arolat's Company here in New York, gave you a check of $2000. I am enclosing a copy of that check. There were no damages to the apartment by Mrs. Arolat. AS you know all tenants are however responsible for Electric, Gas, Telephone and Cable. Of course Mrs. Arolat is willing to pay her share of that.

Would you kindly return to me the amount of $2000, plus interest from the escrow account. At which point I will then make the necessary deductions, and forward the balance

CITY of NEW YORK DEPARTMENT of FINANCE - BUREAU of TREASURY
COMMON TRUST FUND ACCOUNT

458878 12/210

IN THE MATTER OF DIME SAVINGS BANK OF NY
VS
ANNE M. GLAVEY

DATE JUNE 18,1999

458878

PAY TO THE ORDER OF
AINE GLAVEY
C/O MAX E GREENBERG,TRAGER,
TOPLITZ & HERBST
100 CHURCH ST., NY,NY 10007

• PAY $***31,488 DOLLARS 31 CENTS

PURSUANT TO ORDER DATED SUPREME COURT
JUNE 6,1999

TR-N-0124096

COMMISSIONER of FINANCE Joseph Lhota

The Chase Manhattan Bank
1 Chase Manhattan Plaza
New York, N.Y. 10081

THIS CHECK MUST BE ENDORSED BY THE PAYEE AS DRAWN AND NEGOTIATED PROMPTLY

⑈458878⑈ ⑆021000021⑆ 910 4 044657⑈

842

to Mrs. Arolat.

Also, the previous tenant to Mrs. Arolat was Mrs. Jacqueline Drucker, and I understand that you also hold a Security Deposit in respect of that Lease and tenant. There is a telephone bill outstanding in the name of Jacqueline Drucker, copy of which I will enclose. However, in order not to disrupt the service of the current tenant, I had to pay that amount. I had no authority to disconnect the service, since it was not in may name. I am enclosing a copy of my payment. Again, Mrs. Drucker is responsible for all of the Utilities.

Kindly forward to me that Deposit, so that I can make necessary deductions and forward balance to Mrs. Drucker.

As you know, it is necessary to always keep a working telephone in the apartment to secure a short term tenant at the maximum rent.

Thank you for your cooperation to this matter. You may reply to P.O. Box 1514, New York, N.Y. 10009-8905.

~~Very truly yours,~~
s/
Anne M. Glavey

cc: S.T.S. International Trading Inc.,
350 Fifth Ave., Suite 1016,
New York
N.Y. 10118. (Attention: Basak)

Seth J. Farber, Esq., Attorney at Law,
15 Montauk Trail,
Wayne,

New Jersey, 07470.
Civil Court of City of New York Index No. S.C.5637/96-2
COUNTY OF NY

Small Claims Commercial Claims Part

GLAVEY
Claimant(s),

NOTICE OF JUDGMENT

*against*

M. ROBERTS
Defendant(s),

DECISION: After Trial/Inquest, the decision in the above action is as follows:

A. ☐ Judgment and Award in favor of _____

Award amount .....$
Interest .....$
Disbursements.....$
TOTAL JUDGMENT....$

(Information below on the revere side applies to all parties when an award has been granted.)

B. ☐ Judgment in favor of
Defendant, dismissing claim,
No monetary award.

Dismissed without prejudice

(Information below and on the other side is not applicable.)

Date: 10/1/96 By: s/
J.C.C./Arbitrator

INFORMATION FOR THE JUDGMENT DEBTOR
(the party against whom a money judgement has been entered)
YOU HAVE A LEGAL OBLIGATION TO PAY THIS JUDGMENT. YOU MUST PRESENT PROOF TO THE COURT UPON SATISFACTION OF THE JUDGMENT.

Your failure to pay the judgment may subject you to any one or any combination of the following:

a) garnishment of wage(s) and/or bank account(s);

b) lien, seizure and/or sale of real property and/or personal property, including automobile(s);

c) suspension of motor vehicle registration, and/or drivers license, if the underlying claim is based on judgment debtor's ownership or operation of a motor vehicle;

d) revocation, suspension, or denial of renewal or any applicable business license or permit;

e) investigation and prosecution by the State Attorney General for fraudulent or illegal business practices;

f) a penalty equal to three times the amount of the unsatisfied judgment plus attorney's fees of there are unpaid claims.

If you did not appear in court on the day of the Hearing was held, you are defaulting party. A judgment may have been taken against you even though you were not in court. IF that is

so, you may apply to the court in writing and ask to have the default judgment opened. You must give the judge a reasonable excuse for you failure to appear in court and show that you have a meritorious defense. The Judge may open your default judgment and give you another chance to go to court.
("Information for the Judgment Creditor" is on the reverse side.)
THE JUDGMENT IS VALID FOR A PERIOD OF 20 YEARS. IF THE JUDGMENT IS NOT COLLECTED UPON THE FIRST ATTEMPT, FURTHER ATTEMPTS TO COLLECT MAY BE MADE AT A LATER DATE.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ANNE M. GLAVEY
P.O. BOX 1514,
NEW YORK,
N.Y. 10009-8905.

April 9, 1997.

Mr. Michael Roberts,
Roberts & Roberts,
Attorneys at Law,
401 Broadway,
New York,
N.Y. 10013.

Re: 404 East 66th St., Apartment 12A,
New York, N.Y. 10021.

Dear Mr. Roberts,

I refer to the above apartment and to which time you were in the position of Receivership for same.

Please let me know where the rent of my apartment is, the full amount and the interest thereon.

Thank you for your immediate attention to this matter.

Very truly yours,
s/
Anne M. Glavey.

SETH J. FARBER
c/o Max E. Greenberg, Trager,
Toplitz & Herbst
100 Church Street
New York, New York 10007
(212) 267-5700
Attorney for Debtor Aine M. Glavey

In re:

Aine M. Glavey a/k/a
Anne M. Glavey,

Debtor

UNITED STATES
BANKRUPTCY COURT
FOR THE DISTRICT
OF NEW JERSEY
Case No. 95-29580 (NW)
Chapter 13

ORDER

Upon reading the motion of movant Wilshire Credit Corp. for an Order pursuant to 11 U.S.C. Section 362 to modify the automatic stay, and the supporting papers thereto, and upon automatic stay, and the supporting papers thereto, and upon reading the cross-motion of debtor Aine Glavey for turnover of property pursuant to 11 U.S.C. Sections 542 and/or 453, and upon hearing the arguments of counsel, and for good cause shown,

IT IS ORDERED that Debtor's cross-motion pursuant to 11 U.S.C. Sections 542 and 543 is granted, and

IT IS ORDERED that the New York County Clerk and the New York City Department of Fiancé are to turnover to

Debtor Aine Glavey any and all amounts (including interest) held pursuant to an appeal bond filed by Debtor in the amount of $25, 000 on or about April 13, 1994 pursuant to an action entitled Dime Savings Bank of NY v. Anne A. Glavey, index no. 20452-91, ("the foreclosure action") within ten (10) days of the date of this Order and

IT IS FURTHER ORDERED that Michael Roberts, Esq., as Receiver pursuant to the foreclosures action, pursuant to 11 U.S.C. Sections 542 and 543, is to run over any and all proceeds he acquired as receiver pursuant to the foreclosure actions, including but not limited to rents received for the apartment located at 404 E. 66th Street, Apt. 12A in New York, New York, (less only statutory disbursements and receiver's commission or fee) within ten (10) days of the date of this Order, and

IT IS FURTHER ORDERED that Debtor, upon her receipt of the funds described above in this Order, shall remit to Wilshire Credit Corp. any and all amounts received pursuant to this Order within five (5) days of her receipt of same, and

IT IS FURTHER ORDERED that, insofar as movant Wilshire Credit Corp. shall receive amounts in excess of its claimed post-petition arrears of $23,799.27, its motion for relief from the automatic stay per 11 U.S.C. Section 362 is voluntarily withdrawn without prejudice to renewal.

Dated: January 6, 1999

S/_____
Novalyn L. Winfield
U.S.B.J.

FILED
JAMES J. WALDON, CLERK
JAN. 06 1999
U.S. BANKRUPTCY COURT
NEWARK, N.J.
BY s/____ DEPUTY

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY

_____X Case No.
95-29580 (NW)

In re:

STIPULATION

AINE M. GLAVEY a/k/a
ANNE M. GLAVEY,

Debtor

_____X

IT IS HEREBY STIPULATED AND AGREE BY THE ATTORNEYS FOR THE PARTIES HERETO, MICHAEL J. ROBERTS, RECEIVER and HACK, PIRO, O'DAY, MERKLINGER, WALLACE & McKENNA, attorneys for creditor WILSHIRE CREDIT CORPORATION, successor in interest to DIME SAVINGS BANK, and SETH J. FARBER c/o MAX E. GREENBERG, TRAGER, TOPLITZ & HERBST, attorneys for debtor AINE M. GLAVEY a/k/a ANNE M. GLAVEY, AS FOLLOWS:

6. The Receiver having duly produced and provided an informal Temporary Receiver's Account to plaintiff, which plaintiff has reviewed and approved, the parties agree to an order:

(1) approving the Temporary Receiver's Informal account;

(2) fixing the negotiated

commissions of the temporary receiver;

(3) discharging the Temporary Receiver and the Surety on his undertaking;

(4) canceling said undertaking;

(5) for such other and further relief as to this Court may seem just and proper;

7. The parties, after negotiations and discussion of the aforementioned receiver's informal final account and having agreed to a negotiated settlement of their disputes and differences; plaintiff agrees to pay MICHAEL J. ROBERTS, RECEIVER, the amount of $758.00 as and for his duly earned commissions.

8. It is hereby stipulated and agreed that plaintiff shall accept and approve the informal receiver's formal final account and consent to the entry of an order approving the receiver informal final account, and approving receiver's claim for duly earned statutory commissions in the amount of $758.00; it is further agreed that the parties consent to the entry of an order approving the receiver's formal final account in the amount of $758.00, approving the receiver's claim for statutory commissions in the amount of $758.00, and $120.00 for costs and authorizing payment of any and all remaining balance in the

receivership account after payment of any and all outstanding debts and expenses of the receivership owed as January 27, 1999 to plaintiff ANN M. GLAVEY a/k/a AINE M. GLAVEY, and discharge the receivership and his surety.

9. This stipulation contains the entire agreement and understanding between the parties with respect to the matters set forth herein and all prior discussions and agreements are merged into this agreement.

10. The parties hereto agree to accept the payments described herein in full settlement of their rights, interests and claims of any nature whatsoever, either asserted or which could have been asserted, against each other and arising out of or relating to the mortgage foreclosure receivership proceedings concerning the property located at 414 East 64th Street, New York, New York.

11. The terms of the order of the HON. NOVALYN WINFIELD, USBJ, dated January 6, 1999 is incorporated herein.

Dated: New York, New York
February , 1999

S/_____
MICHAEL J. ROBERTS, RECEIVER

S/_____
HACK, PIRO, O'DAY,
MERKLINGER, WALLACE
& McKENNA, P.C.

S/_____
SETH J. FARBER

Dated: July 19, 1999

SO ORDERED:

S/_____
NOVALYN L. WINFIELD, JSC

FILED
JAMES J. WALDRON, CLERK
July 19, 1999
U.S. Bankruptcy Court
Newark, N.J.
By: S/_____Deputy
Wekalb

ROBERTS & ROBERTS
ATTORNEYS AT LAW
401 BROADWAY
NEW YORK, NEW YORK 10013

MICHAEL J. ROBERTS
VICTOR A. ROBERTS (1911-1985)

212-226-4925
212-996-6532
Fax 212-274-0109

May 30, 2000

Max E. Greenberg, Trager Toplitz & Herbst
100 Church Street
New York, New York 10007

Attention: Seth J. Farber

Re: Dime Savings Bank of New York, FSB
v. Anne M. Glavey, et al.

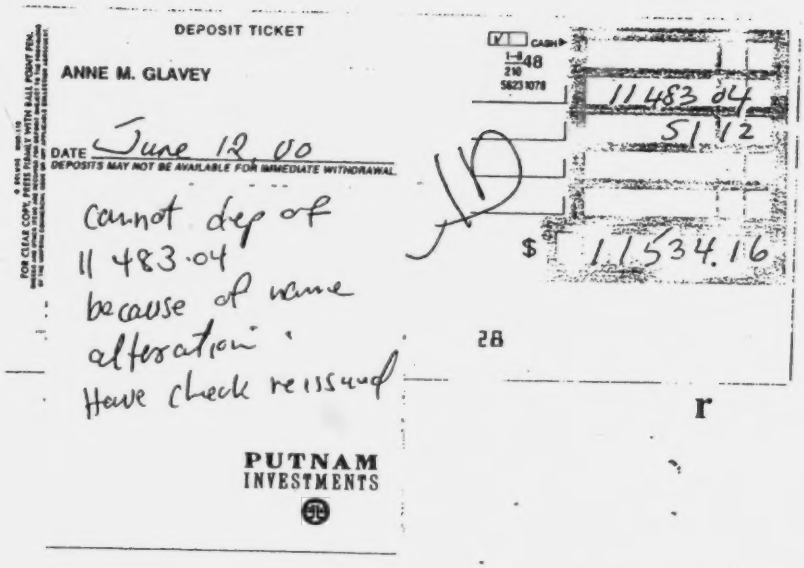
Dear Seth:

In accordance with the order of the Hon. Novalyn Winfield, U.S.B.J. dated January 6, 1999 and the order of the Hon. Edward H. Lehner, dated March 27, 2000, I am enclosing a check from the receivership account for the balance of funds in the amount $11,483.04. I have paid myself the sum of $878.00, pursuant tot he order and additional $100.00 was due to Offenhartz & Pedersen, Ltd for the bond for the last year.

I am glad that this matter is finally concluded. I trust things are well for Ms. Glavey.

Very truly yours,

S/_____
Michael J. Roberts



DEPOSIT TICKET

ANNE M. GLAVEY

DATE June 12 00

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

Cannot dep of
11 483.04
because of name
alteration.
Have check reissued

PUTNAM
INVESTMENTS

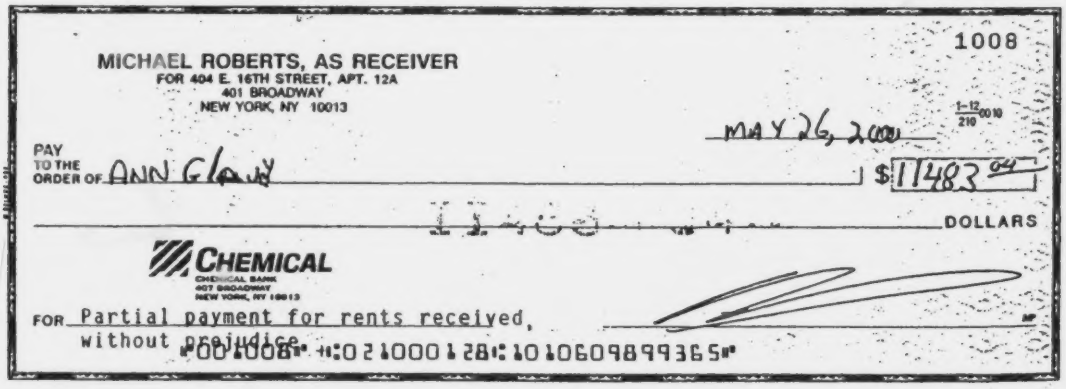
CASH

11483 04
51 12

$ 11534.16

28

r



1008

MICHAEL ROBERTS, AS RECEIVER
FOR 404 E. 16TH STREET, APT. 12A
401 BROADWAY
NEW YORK, NY 10013

MAY 26, 2000

PAY TO THE ORDER OF ANN GLAVEY $ 11483 04

DOLLARS

CHEMICAL
CHEMICAL BANK
407 BROADWAY
NEW YORK, NY 10013

FOR Partial payment for rents received, without prejudice

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

X Index No. 20452/91

THE DIME SAVINGS BANK OF NEW YORK, FSB,
Plaintiff,

STIPULATION

-against-

ASSIGNED TO HON: EDWARD H. LEHNER

ANNE M. GLAVEY, and THE BOARD OF MANAGERS HARDENBROOK HOUSE CONDOMINIUM,
Defendants.

X

IT IS HEREBY STIPULATED AND AGREE BY THE ATTORNEYS FOR THE PARTIES HERETO, MICHAEL J. ROBERTS, RECEIVER and HACK, PIRO, O'DAY, MERKLINGER, WALLACE & McKENNA, attorneys for creditor WILSHIRE CREDIT CORPORATION, successor in interest to DIME SAVINGS BANK, and SETH J. FARBER c/o MAX E. GREENBERG, TRAGER, TOPLITZ & HERBST, attorneys for debtor AINE M. GLAVEY a/k/a ANNE M. GLAVEY, AS FOLLOWS:

1. The Receiver having duly produced and provided an informal Temporary Receiver's Account to plaintiff, which plaintiff has reviewed and approved, the parties agree to an order:

1. approving the Temporary Receiver's Informal account;

2. fixing the negotiated commissions of the temporary receiver;

3. discharging the Temporary Receiver and the Surety on his undertaking;

4. canceling said undertaking;

5. for such other and further relief as to this Court may seem just and proper;

2. The parties, after negotiations and discussion of the aforementioned receiver's informal final account and having agreed to a negotiated settlement of their disputes and differences; plaintiff agrees to pay MICHAEL J. ROBERTS, RECEIVER, the amount of $758.00 as and for his duly earned commissions.

3. It is hereby stipulated and agreed that plaintiff shall accept and approve the informal receiver's formal final account and consent to the entry of an order approving the receiver informal final account, and approving receiver's claim for duly earned statutory commissions in the amount of $758.00; it is further agreed that the parties consent to the entry of an order approving the receiver's formal final account in the amount of $758.00, approving the receiver's claim for statutory commissions in the amount of $758.00, and $120.00 for costs and authorizing payment of any and all remaining balance in the receivership account after payment of any and all outstanding debts and expenses of the receivership owed as January 27, 1999 to plaintiff ANN M. GLAVEY a/k/a AINE M. GLAVEY, and discharge the receivership and his surety.

4. This stipulation contains the entire agreement and understanding between the parties with respect to the matters set forth herein and all prior discussions and agreements are merged into this agreement.

5. The parties hereto agree to accept the payments described herein in full settlement of their rights, interests and claims of any nature whatsoever, either asserted or which could have been asserted, against each other and arising out of or relating to the mortgage foreclosure receivership proceedings concerning the property located at 414 East 64th Street, New York, New York.

6. The terms of the order of the HON. NOVALYN WINFIELD, USBJ, dated January 6, 1999 is incorporated herein.

Dated: New York, New York
February , 1999

S/_____
MICHAEL J. ROBERTS, RECEIVER

S/_____
HACK, PIRO, O'DAY,
MERKLINGER, WALLACE
& McKENNA, P.C.

S/_____
SETH J. FARBER

SO ORDERED:

S/_____
EDWARD H. LEHNER, JSC

Mar. 27, 2000

At an IAS Part 19 of the Supreme Court of the State of New York, Held in and for the Count of New York, at the Supreme Courthouse located at 80 Centre Street, New York, on the Day of March 27, 2000

PRESENT: EDWARD H. LEHNER, JSC

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____X

THE DIME SAVINGS BANK OF NEW YORK, FSB,

Plaintiff,

-against-

ANN M. GLAVEY, and THE BOARD OF MANAGERS HARDENBROOK HOUSE CONDOMINIUM,

Defendants.

_____X

CONSENT ORDER APPROVING RECEIVER'S FINAL ACCOUNT

INDEX NO. 20452/91

ASSIGNED TO HON. EDWARD H. LEHNER

The debtor and defendant, ANN M. GLAVEY, her counsel SETH J. FARBER, having made a motion for turnover of property, pursuant to 11 U.S.C. §542 and/or §543 of the United States Bankruptcy Code and the motion having come on for a hearing and upon the hearings of arguments of counsel and

an order having been rendered by the Hon. Novalyn Winfield, USBJ, on January 6, 1999, the parties having agreed to and stipulated to approval of Receiver's informal final accounting, and duly earned fees and commissions of the Receiver and his managing agent, and the Receiver having duly turned over control of the subject premises to plaintiff and having forwarded any balance remaining in the Receivership account, and the parties having consented to entry of an order:

(1) approving the Temporary Receiver's Account;

(2) fixing the commissions of the temporary receiver;

(3) discharging the Temporary Receiver and the Surety of his undertaking;

(4) canceling said undertaking;

(5) for such other and further relief as to this Court may seem just and proper;

Now, on the reading and filing the Stipulation filed herein, dated January 27, 1999, and the order of the JUSTICE NOVALYN WINFIELD, dated January 6, 1999, and all the prior papers and proceedings herein, it is,

ORDERED that the account of the Temporary Receiver herein, MICHAEL J. ROBERTS, be and the same is hereby is approved, ratified and confirmed, an it further

ORDERED that the Temporary Receiver herein, MICHAEL J. ROBERTS, be and he hereby is allowed the sum of 758 Dollars and 00 Cents ($758.00) and 120 Dollars and 00

Cents (120.00) for a total of 878 Dollars and 00 Cents ($878.00) as and for his commissions, as Temporary Receiver herein, and it further

ORDERED that the Temporary Receiver be and will be discharged as such Temporary Receiver, and the Surety on his undertaking, Home Indemnity Company of Manchester, New Hampshire, be and it shall be discharged from any and all liability on said undertaking, and that said undertaking shall be upon making the payments directed herein, and recover by submitting an ex-parte order of discharge shall be discharged and undertaking canceled.

ENTER,

S/_____
Edward H. Lehner, J.S.C.

The foregoing order is submitted on consent of the parties, MICHAEL J. ROBERTS, RECEIVER and HACK, PIRO, O'DAY, MERKLINGER, WALLACE & McKENNA, P.C., 30 Columbia Turnpike, P.O. Box 941, Florham Park, New Jersey 07932-0941, attorneys for creditor WILSHIRE CREDIT CORPORATION, successor in interest to DIME SAVINGS BANK, and SETH J. FARBER c/o MAX E. GREENBERG, TRAGER, TOPLITZ & HERBST, 100 Church Street, New York, New York 10007, attorneys for debtor AINE M. GLAVEY a/k/a ANNE M. GLAVEY.

S/_____
MICHAEL J. ROBERTS

S/_____
HACK, PIRO, O'DAY
MERKLINGER, WALLACE
& McKENNA, P.C.

S/_____
SETH J. FARBER

FILED
Mar. 28, 2000
County Clerk's Office
New York

ROBERTS & ROBERTS
ATTORNEYS AT LAW
401 BROADWAY
NEW YORK, NEW YORK 10013

MICHAEL J. ROBERTS
VICTOR A. ROBERTS (1911-1985)

212-226-4925
212-996-6532
Fax 212-274-0109

July 13, 2000

Anne M. Glavey
P.O. Box 1514
New York, New York 10009-8905

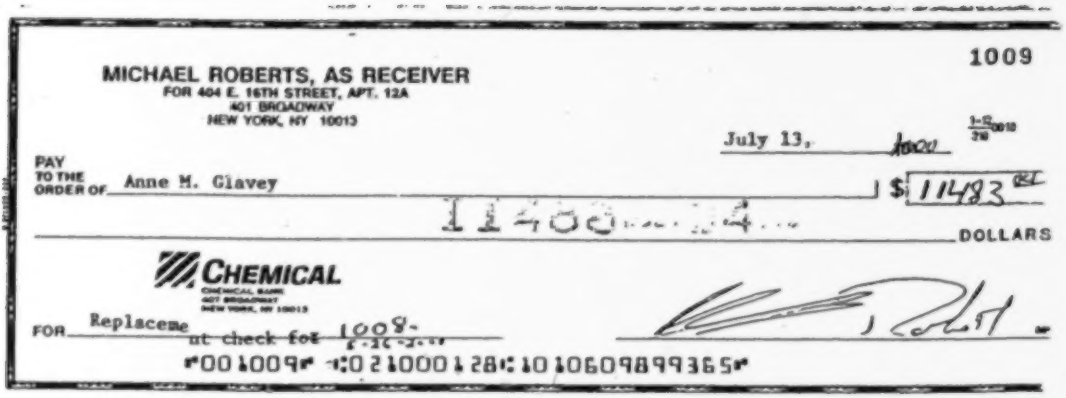
Re: 404 East 66th Street, Apartment 12A
New York, New York 10021

Dear Ms. Glavey:

Enclosed, please find a replacement check.

Very truly yours,

S/_____
Michael J. Roberts



1009

MICHAEL ROBERTS, AS RECEIVER
FOR 404 E. 16TH STREET, APT. 12A
401 BROADWAY
NEW YORK, NY 10013

July 13, 19XX

PAY TO THE ORDER OF Anne M. Clavey $ 114.83

1140...4... DOLLARS

CHEMICAL
CHEMICAL BANK
NEW YORK, NY 10015

FOR Replacement check for 1008-

⑈001009⑈ ⑆021000128⑆ 10106098993 65⑈

CERTIFIED MAIL
return receipt requested:

AINE GLAVEY,

P.O. Box 1514,
New York
N.Y. 10009-8905.

June 12, 2000.

Mr. Michael Roberts,
Roberts & Roberts,
Attorneys At Law,
401 Broadway
New York
N.Y. 10013.

Re: Dime Savings Bank of New York, FSB v. Anne M. Glavey.

Dear Mr. Roberts,

I am in receipt of your letter of May 30, 2000 and your check in the amount of $11, 483.04.

You took over Receivership of my apartment on May 1, 1995. Please send me an itemized and detailed accounting of rents received. Also, I need a copy of all Leases.

Thank you for your attention to this matter.

Very truly yours,

S/_____
Anne M. Glavey.

cc: Mr. Seth Farber,
Max E. Greenberg, Trager Toplitz & Herbst,
100 Church Street,
New York, N.Y. 10007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED:

AINE GLAVEY,

P.O. Box 1514,
New York
N.Y. 10009-8905.

September 12, 2000.

Mr. Michael Roberts,
Roberts & Roberts,
Attorneys At Law,
401 Broadway
New York, N.Y. 10013.

Re: Check of $11483.04 in relation to Apartment 12A, 404 E 66th Street, New York, New York 10021.

Dear Mr. Roberts,

I have received your check in the above amount.

Kindly send me an itemized detailed statement of the transactions relating to my apartment - rent, deposits, name and addresses of tenants, plus interest that I have received on my monies.

Thank you for your attention to this matter.

Very truly yours,

S/_____
Anne M. Glavey.

CERTIFIED & REGULAR MAIL: ANNE M GLAVEY

P.O. Box 1514,
New York, 10009-8905.

October 12, 2000.

Mr. Michael Roberts,
Roberts & Roberts,
Attorneys at Law,
401 Broadway,
New York, N.Y. 10013.

Re: Check of 411,483.04 in relation to Apartment 12A, 404 E 66th New York, N.Y. 10021, of which you were Receiver.

Dear Mr. Roberts,

I refer to my letter of one month ago, which I sent to you Certified Mail, Return Receipt, to which I have the receipt, but you have not returned your copy or picked up the letter, thus I am sending it Certified and by Regular Mail this time.

Kindly send me an accounting of my Rents, Deposits, Tenants, bills paid, etc., and also the interest to my account.

Thank you for your attention to this matter.

Very truly yours,

S/_____
Anne M. Glavey.

Mr. Seth Farber,
Attorney for Glavey
100 Church St., 16th Floor,
Max E. Greenberg,
New York, N.Y. 10007

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____X

DIME SAVINGS BANK
Plaintiff

NOTICE OF MOTION
Index No. 20452/91

-against-

ANNE M. GLAVEY
Defendant

_____X

PLEASE TAKE NOTICE that upon the Affidavit of Anne M. Glavey Plaintiff herein, sworn to on November 16, 2000, will move this Court, located at 60 Centre Street, Rm. 130 New York, New York, on the 30th day of November, 2000, at 9:30 o'clock in the forenoon, or as soon thereafter as can be heard, for an Order compelling the Receiver - Michael Roberts, to give an Accounting to Plaintiff- ANNE M GLAVEY, of monies received while appointed Receiver of plaintiff's apartment, to collect rents and so forth from said apartment.

Plaintiff will rely on attached Affidavit and accompanying Exhibits.

Dated: New York, New York
November 16, 2000

S/_____
ANNE M GLAVEY
P.O. Box 1514
New York,
N.Y. 10009-8905
(212) 473-4457

To: Michael Roberts, Esq,
Receiver/defendant,
Roberts & Roberts,
Attorneys at Law,
401 Broadway,
New York, N.Y. 10013

SUPREME COURT
STATE OF NEW YORK
RECEIVED
NOV. 16, 2000
I.A.S. MOTION
SUPPORT OFFICE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____X

ANNE M GLAVEY

AFFIDAVIT

Plaintiff

-against- Index No. 20452/91

MICHAEL ROBERTS

Defendant/Receiver

_____X

State of New York )
) ss.:
County of New York )

ANNE M. GLAVEY, being duly sworn, deposes and says:

1. I Am the Plaintiff in this action and I was the owner, and still am, of Apartment 12A, 404 East 66th Street, New York, N.Y. 10021, when Michael Roberts was appointed by the State Supreme Court of New York as Receiver to collect rents, deposits and handle the affairs of the above name apartment. Please see Exhibit A, "shall duly account for all monies received by him as Receiver."

2. One of the rental's Michael Roberts undertook was to a Mrs Arolot of S.T.S. International Trading, Inc. and he was given a deposit of $2000.00. Please see Exhibit B. Mrs Arolot of S.T.S. International Trading, Inc., has not received her deposit back, and I confirmed that there were no damages done

to my apartment. Please see Exhibit C.

3. On July 13, 2000, a check was sent to me by Michael Roberts in the amount of $11483.04, with no accounting of the monies received, interest, bills paid or any other transactions. Please see Exhibit D.

4. I have requested an accounting from Michael Roberts, but he has not responded to my requests. Please see Exhibits E & F.

Wherefore, it is respectfully requested that the Court grant an Order, compelling Michael Roberts to give me an accounting of all transactions in relation to my apartment, and for such other and further relief as may be just and proper.

S/_____
ANNE M. GLAVEY

Sworn to before me on

November 16, 2000

S/_____
Kathleen Laurea
Notary Public

Kathleen Laurea
Notary Public of New York
No. 24-5010941
Certified in Kings County
Commission Expires April 12, 2001

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____X

ANNE M GLAVEY

AFFIDAVIT OF SERVICE

Plaintiff

Index No. 20452/91

-against-

MICHAEL ROBERTS

Defendant/Receiver

_____X

I, ANNE M GLAVEY, do hereby state, Under Oath, that I have mailed a copy of the Notice of Motion, Affidavit and Accompanying Exhibits to:

Michael Roberts,
Roberts & Roberts
Attorneys at Law,
401 Broadway,
New York,
N.Y. 10013

on this day of 16th November, 2000.

Dated: New York, New York
November 16, 2000.

S/_____
ANNE M GLAVEY

Sworn to before me on this
day of 16th November, 2000

Kathleen Laurea
Notary Public of New York
No. 24-5010941
Certified in Kings County
Commission Expires April 12, 2001

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: EDWARD H. LEHNER PART 19
Justice

Index No: 20452-91
Motion Date _____
Motion Seq. No. 09
Motion Cal. No. _____

DIME SAVINGS BANK OF NY

v.

GLAVEY A.M.

The following papers, numbered 1 to ____ were read on this motion to/for _____

Notice of Motion/Order to Show Cause - Affidavits - Exhibits ...
Answering Affidavits - Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

_____

_____

_____

CROSS-MOTION: ☐ Yes ☐ No

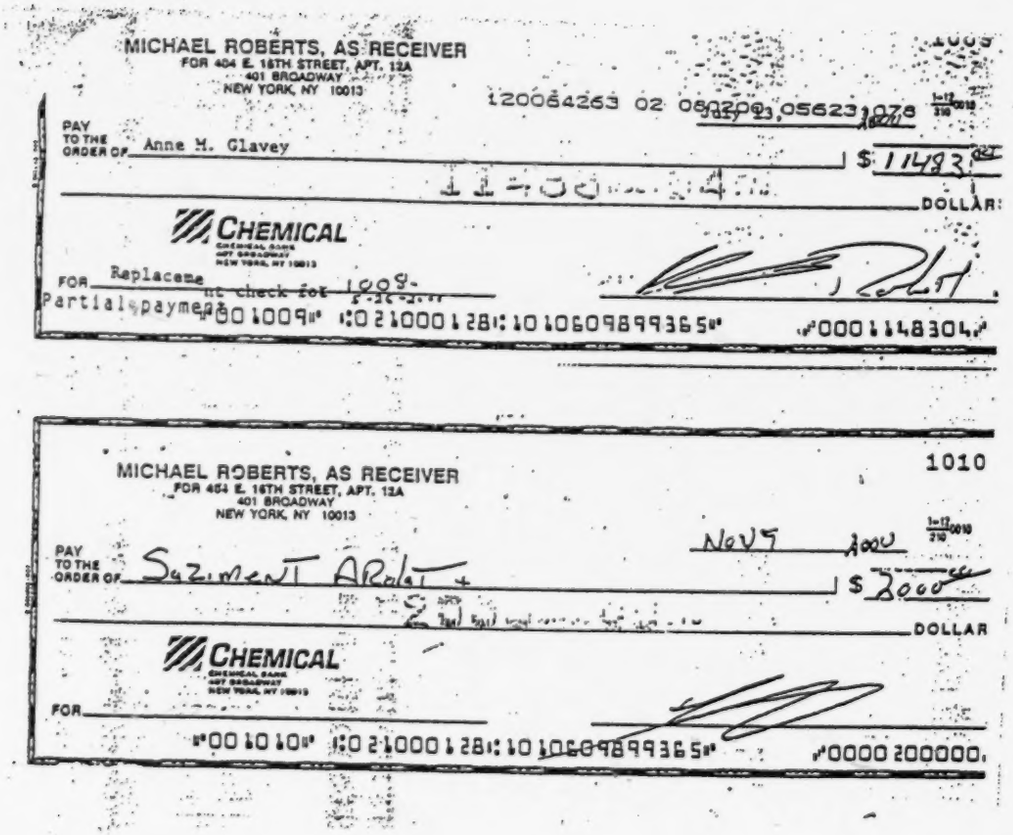
Upon the foregoing papers, it is ordered that this motion to require the receive, Michael Roberts, to file a final accounting is granted without objection. Such accounting shall be filed within 30 days of service of a copy of this order.

Dated: Jan. 16, 2001 S/ _____
Edward H. Lehner, J.S.C.

Check one: ☐ Final Disposition ☒ Non-Final Disposition

FILED
Jan. 19, 2001
County Clerk's Office
New York

| Check No. | Payee | For | Amount |
|---|---|---|---|
| 1001 | Jackie Drucker | Return of Security | $ 2,000.00 |
| 1002 | Offenhartz & Pedersen, Ltd. | Receiver Bond | $100.00 |
| 1003 | Offenhartz & Pedersen, Ltd. | Receiver Bond | $100.00 |
| 1004 | **Risk Management** | **Receiver Bond** | $200.00 |
| 1005 | Risk Management | Receiver Bond | $100.00 |
| 1006 | Michael J. Roberts | Commission | $878.00 |
| 1007 | Offenhartz & Pedersen, Ltd. | Receiver Bond | $100.00 |
| 1008 | Void | | |
| 1009 | Anne Glavey | Pursuant to Order | $11,483.04 |
| 1010 | Saziment Arolat | Return of Security | $2,000.00 |
| Totals | | | **$16,961.04** |



MICHAEL ROBERTS, AS RECEIVER
FOR 404 E. 16TH STREET, APT. 12A
401 BROADWAY
NEW YORK, NY 10013

1009

120064263 02 08/20/05623 1078

PAY TO THE ORDER OF Anne M. Glavey $ 1148.30

DOLLARS

CHEMICAL
CHEMICAL BANK
477 BROADWAY
NEW YORK, NY 10013

FOR Replacement check for 1009. Partial payment

⑈001009⑈ ⑆021000128⑆ 10106098999365⑈ ⑈000114830⑈

MICHAEL ROBERTS, AS RECEIVER
FOR 404 E. 16TH STREET, APT. 12A
401 BROADWAY
NEW YORK, NY 10013

1010

NOV 5 2005

PAY TO THE ORDER OF Settlement Proceeds $ 2000.00

Two thousand and 00/100

DOLLARS

CHEMICAL
CHEMICAL BANK
477 BROADWAY
NEW YORK, NY 10013

FOR

⑈001010⑈ ⑆021000128⑆ 10106098999365⑈ ⑈0000200000⑈

MICHAEL ROBERTS AS RECEIVER FOR
404 E. 16TH STREET APT. 12A
401 BROADWAY
NEW YORK, NY 10013

The Small Business Team
At Chase Statement
Customer Service
Call Small Business ServiceLine
At 1-800-CHASE38

Primary Account Number: 010-6098993-65
Number of Checks Enclosed: 1

Business Checking
010-6098993-65

MICHAEL ROBERTS AS RECEIVER FOR
404 E. 16th Street Apt. 12A

| Summary | Number | Amount |
|---|---|---|
| Opening Balance | | 1,958.00 |
| Deposits and Credits | 1 | 67.00 |
| Withdrawals and Debits | 1 | 25.00 |
| Checks Paid | 1 | 2,000.00 |
| Ending Balance | | 0.00 |

| Deposits and Credits | Date | Description | Amount |
|---|---|---|---|
| | 01/12 | Monthly Service Charge Adj | 67.00 |

| | | | |
|---|---|---|---|
| Total | | | 67.00 |

| Withdrawals and Debits | Date | Description | Amount |
|---|---|---|---|
| | 01/05 | Insufficient Funds Service Fee | 25.00 |
| Total | | | 25.00 |

| Checks Paid | Check | Date Paid | Amount |
|---|---|---|---|
| | 1010 | 01/05 | 2,000.00 |
| Total (1 Check) | | | 2,000.00 |

Indicates gap in check sequence

| Daily Balances | Date | Balance | Date | Balance |
|---|---|---|---|---|
| | 01/05 | 67.00 | 01/12 | 0.00 |

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X Index No. 20452/91

THE DIME SAVINGS BANK
OF NEW YORK, FSB,

Plaintiff,

-against-

ANN M. GLAVEY, and THE BOARD OF
MANAGERS HARDENBROOK HOUSE
CONDOMINIUM,

Defendants.

----------X

MICHAEL J. ROBERTS, an attorney at law, duly admitted to practice in the courts of the state of New York, hereby affirms under penalty of perjury that the following is correct.

1. I am the Court appointed Receiver of 404 East 66th Street, Apartment 12A, New York, New York 10021 and as such am fully familiar with the facts and circumstances herein.

2. I submit this affirmation in support of the attached Ex-Party Order discharging the Receiver and canceling the Surety based upon compliance with the prior order of the Hon. Edward H. Lehner, JSC, dated March 2, 2000. Copies of relevant documents and checks are attached hereto as Exhibits.

3. Your affiant requests an Ex-Party Order discharging the Receiver and canceling the undertaking should be entered herein.

4. There is presently a zero balance in the account. All monies have been paid pursuant to the order of Judge Lehner, dated March 2, 2000 and by stipulation amongst the attorneys. A final check dated on or about November 13, 2000 in the amount of $2,000.00 for return of security deposit was made payable to Saziment Arolat and copy of said check showing that it was paid, is attached hereto, together with the final bank statement from the Chase Manhattan bank.

5. In addition, your affiant has prepared a chart, Exhibit B, showing all disbursements, the amount and the parties to whom the checks were paid, It does not reflect ordinary bank charges, charged by Chase Bank during the term of the Receivership.

WHEREFORE, the Receiver should be discharged, and the surety canceled, together with such other and further relief as may be just and proper in the circumstance.

Affirmed: New York, New York
February 14, 2001

S/_____
MICHAEL J. ROBERTS

At an IAS Part 19 of the Supreme Court of the State of New York, held in and for the County of New York, at the Supreme Courthouse located at 60 Centre Street, New York, on the 15th day of February, 2001

PRESENT: EDWARD H. LEHNER, JSC

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X

THE DIME SAVINGS BANK
OF NEW YORK, FSB, EX-PARTY ORDER

Plaintiff, INDEX NO. 20452/91

ASSIGNED TO HON.
-against- EDWARD H. LEHNER

ANN M. GLAVEY, and
THE BOARD OF MANAGERS
HARDENBROOK HOUSE
CONDOMINIUM,

Defendants.

----------X

The Temporary Receiver having complied with the prior order of this Court, approving said receiver's final account, and having duly issued the Court approved payments required thereunder (proof of compliance attached, it hereby

ORDERED that the Temporary Receiver be and hereby is discharged as such Temporary Receiver, and the Surety on

his undertaking, Fidelity Deposit Company of Maryland, be and its hereby discharged from any and all liability on said undertaking, and that said undertaking be and the same is hereby canceled.

ENTER,

S/_____
EDWARD H. LEHNER

NYS SUPREME COURT
RECEIVED
February 16, 2001
I.A.S. Motion
Support Office

FILED
February 16, 2001
New York
County Clerk's Office

CMD: ST NWKY - CASE INQUIRY
020452/1991 DISPOSED SUPREME COURT
DIME SAVINGS BANK OF N.Y. VERSUS
GLAVEY, ANNE M.
ACTION: FORECLOSURE
IAS CTGY: SPECIAL PROCEEDINGS
DISCOVERY: UNKNOWN
TI(001) CA(000) CO(003)
NOTE OF ISSUE: NONE
JURY UNKWN NO S/P
PI: ( ) PD: ( ) IAS DTE: 10/15/1991
JUSTICE: LEHNER, EDWARD H.
RJI TYPE: MOTION

OO1 JUDGMENT OF FORECLOSURE AND SALE SIGNED 2/9/94 TO CC 2/14/94 CR

002 SIGNED 2/7/95, MICHAEL ROBERTS, 401 B'WAY, NYC 10013, 226 4925. REC.

003 EX-PARTE ORDER SIGNED 02-15-01 DISCHARGING RECEIVER SENT TO CC 02-16-01. JF EXP.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED:

AINE a.k.a. ANNE M. GLAVEY

P.O. Box 1514
New York
N.Y. 10009-8905

March 6, 2001

Hon. Edward H. Lehner Justice of the Supreme Court
State of New York, County of New York
IAS PART 19
80 Centre Street
New York, N.Y. 10013

Re: Receiver - Michael J. Roberts: 404 East 66th Street, Apartment 12A, New York, N.Y. 10021

Dear Judge Lehner,

I am in receipt of your Honor's Order requiring Michael Roberts to file an accounting of the transactions of the above apartment, whilst he was receiver from May 1, 1995 to December 1, 1995. I will enclose the Order as Attachment 1.

On February 16, 2001, Mr. Roberts submitted to the Court a purported accounting of transactions of my apartment while he was receiver. This will be Attachment 2. I object to such a flippant reporting on my monies, and hereby request your Honor to sign a Subpoena, whereby I can receive a proper account of the Bank records in relation to my account.

First, this Bank Statement is for 404 E. 16th Street, my apartment is located at 66th Street. Secondly, the Statement is only from January 5 - February 5, 2001. Mr. Roberts commenced receiving rents on May 1, 1995. Copies of the first 4 (four) checks are missing. Check 1005 is payable to Risk Management in the amount of $100 and dated May 18, 1995 and it states that the Bond covers the period 1998-1999. Check 1006 for $878 is allegedly Mr. Roberts statutory commission. Check 1007 in another amount of $100 is payable to Offenhartz & Pedersen, Ltd, and is dated May 00, and does not state what period this alleged Bond covers. I totally object to a total of $600 in Bonds, allegedly paid in different phases. Again, as I have stated copies of the first 4 checks are missing. In addition Mr. Roberts was no longer Receiver after I declared Bankruptcy in December of 1995.

There is a discrepancy on the amounts of my rents collected. The exact amount if $14,000 (fourteen thousand dollars) and there is no proper accounting of my rents received. Mr. Roberts commenced collecting my rents on May 1, 1995 at the rate of $2000 per month and the Lease expired on June 30, 1995. That means that Mr. Roberts is holding $4000 from that tenant. I will enclose a copy of the Lease at Attachment 3. The tenants always pay their own utilities.

The next tenancy was for 3½ months until September 30, 1995 at a rate of $2000, which equates to $7000. I will enclose that Lease as Attachment 4.That tenant - Jacqueline Drucker also gave Mr. Robert's $2000 deposit. As usual, of course, the tenant must pay for all utilities. Also, please note what it states at 33 of the Lease Rider: "The Con Edison and cable television accounts will be paid by Jacqueline Drucker. The telephone account will be paid by Jacqueline Drucker." and at 34 it states: The security deposit ($2,000.00) shall be held by

Michael J. Roberts, Receiver and will be returned to Jacqueline Drucker at the conclusion of this Agreement, after all charges in item 33, above have been paid."

Michael Roberts did not do any of the foregoing, and of course, at my expense. Mr. Drucker left behind unpaid telephone bills, Con Edison bills and Cable Television bills. And, yet, Mr. Roberts claims that he returned the Security Deposit of $2000 to Jacqueline Drucker. This is one of the missing checks. In fact Jacqueline Drucker left my apartment with all of the utilities in her name, except for the Cable T.V. which was left in my name.

I will attach copies of the relevant bills. As will be seen from the October, 1995 bill the amount is $271.15, which I was forced to pay. This will be Attachment 5. The December 1995 bill was $224.19, Attachment 6. The telephone Company would not disconnect the telephone at my request, since it was in Jacqueline Drucker's name, and I needed a telephone for prospective tenants. It was only when Mrs Drucker did not pay her bills that it was disconnected in January of 1996.

Again, Jacqueline Drucker left the Con Edison in her name and it had to be paid in December of 1995, in the amount of $227.05, otherwise it would have to be disconnected. This will be Attachment 7. The Cable T.V. which remained in my name came to $70.74, Attachment 8. And there was an additional charge of $60.00 for reinstallation, Attachment 9.

Therefore, the amounts of $271.15 + $224.19 + $227.05 + $70.74 + $60.00 equals $853.13, which is owing to me.

The last and final tenant under Mr. Roberts was a Saziment Arolat from Turkey, who signed a Lease from

October 1, 1995 to November 15, 1995 at the rate of $2000 per month. I will attach that Lease as Attachment 10. Copies of the Rent check and Security check of $2000 will be Attachment 11. Again, at 6) Rider to Lease it states: "The Tenant is responsible for paying all charges for the Con Edison, telephone and cable television (if any) account during the term of this Agreement."

Clearly, the total rents from the above accounting is $14,000 ($4000 +$7000+$3000).

On March 30, 1996, I wrote to Mr. & Mrs. Drucker who live in Washington regarding the deposit of $2000 and the payment of the utilities, as Attachment 12. There was no response.

Saziment Arolat continued to telephone me requesting the return of her deposit. Mr. Roberts was still holding the deposit and my utilities were still not paid and they continued to be held in the previous tenant's name - Jacqueline Drucker. In October, 1996, I sued both Mr. Roberts for the return of the Security deposits and the payment of the utilities but the case was dismissed without prejudice, Attachment 13.

In December, 1996, I once again wrote to Mr. Roberts requesting an accounting of the deposits and the payment of the utilities, all to no avail. I will enclose that letter as Attachment 14.

In April, 1997, I wrote to Mr. Roberts, requesting an accounting of my rents, again to no avail, Attachment 15.

On May 26, 2000, Mr. Roberts sent me a check in the amount of $11483.04 (Attachment 16), allegedly to cover all monies due to me. The check could not be deposited into my

account, as it was improperly written. I was forced to write to Mr. Roberts for a replacement check, Attachment 16. That took almost another two months. (Attachment 17).

Mr. Roberts has been holding rents of mine in the amount of $14,000.00 since 1995 - a period of 5 (five years), yet there is no mention of the interest thereon. There is a difference of $2,516.96 (R14,000.00 - $11483.04). In addition my utilities have been $853.13, making a total of $3,370.09. If one subtracts his statutory commission of $878.00 from $3,370.09, you come up with $2,392.09. Minus $100 Bond for 1995 to a figure of $2,292.09. This does not include interest for 5 years. This does not include the two deposits of $2000 respectively, plus interest thereon.

Mr. Roberts was relieved from his duties when I declared Bankruptcy in 1995. Therefore, it was not necessary to continue with a Surety Bond of an addition $500. In addition, there are no checks showing that this amount was on July 19, 1999, by Stipulation signed by Judge Winifield of the Bankruptcy Court, as per Attachment 18. Yet, he chose to hold on to my rents for period of five years, obviously, so that he himself would get interest on $14,000.00 on my money.

It was only when I filed a Motion to Compel Mr. Roberts to give me an accounting on my rents did he allegedly return the Security Deposit of $2000 to Saziment Arolat, predated it to November 9, 2000 and it allegedly cleared on 1/05/01. Mrs. Arolat is back in Turkey and Mr. Roberts does not have her address there. I spoke to her as recently as December 2000 and she had not received the Deposit. S.T.S. International - the Company Mrs. Arolat worked for while she was staying in my apartment is no longer in business. So, I fail to understand how this check could have cleared my account. In

addition, why did he not make a deduction for the utilities?

The Bond which I have to pay to the Indemnity Company is a condition of MICHAEL ROBERTS, ESQ., "shall faithfully discharge the duties of his trust, and shall duly account for all monies received by him as such Receiver," (Attachment 19).

Mr. Roberts was indeed quick to write to me promptly, both at my New Jersey address and the New York address and threaten me with Contempt of Court, for not turning over rent for March and April of 1995, even though it had been paid in advance in February. I will attach this letter as Number 20. Of course, by collecting another $6000, Mr. Roberts would have the use of my money without any interest to me.

In addition, due to the problems with the utility bills, there was a lapse of two weeks when my apartment was not occupied at a loss of $1000.

According to the foregoing, I am requesting your Honor to sign the Subpoena, so that I can get a proper accounting of the monies due to me.

Yours respectfully,

Aine a.k.a ANNE M. GLAVEY.

cc: Mr. Michael Roberts
Roberts & Roberts
Attorneys at Law
401 Broadway

New York, N.Y. 10013

The Home Indemnity Company
59 Maiden Lane
New York, N.Y. 10007

Mr. Seth Farber
Attorney for Glavey
Max E. Greenberg, Trager Toplitz & Herbst
100 Church St.
New York, N.Y. 10007

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____X

DIME SAVINGS BANK OF
NEW YORK NOTICE OF MOTION

Plaintiff

-against- Index No. 20452/91

ANNE M. GLAVEY

Defendant.

_____X

PLEASE TAKE NOTICE that upon the Affidavit of Anne M. Glavey, defendant herein, sworn to on June 11, 2001, will move this Court, located at 60 Centre Street, Room 130 New York, New York, 10013, on June 26, 2001, at 9:30 o'clock in the forenoon, or as soon thereafter as can be heard, for a Judicial Subpoena, compelling Chemical Bank aka Chase, to supply Bank Statement, copies of checks and all other evidence and writings, in their custody or power, concerning the premises of defendant at 404 East 66th Street, Apartment 12 A, New York, N.Y. 10021, from February 22, 1995 up to the present time, while Michael Roberts was Receiver of said apartment.

Defendant will rely on attached Affidavit and accompanying Exhibits.

ANNE M. GLAVEY
P.O. Box 1514
New York, N.Y. 10009-8905
212-473-4457

Dated: June 11, 2001

New York, N.Y.

To: Michael Roberts, Esq.
Roberts & Roberts
Attorneys at law
401 Broadway
New York, N.Y. 10013

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____X

DIME SAVINGS BANK OF
NEW YORK AFFIDAVIT

Plaintiff

-against- Index No. 20452/91

ANNE M. GLAVEY

Defendant.

_____X

State of New York )
)ss.:
COUNTY OF NEW YORK )

ANNE M. GLAVEY, being duly sworn, deposes and says:

1. I am the Defendant in this action and the owner of Apartment 12A, 404E 66th Street, New York, N.Y. 10021, and Michael Roberts was appointed Receiver on February 22, 1995.

2. I will enclose a copy of a related letter, previously sent to the Court, as Exhibit A.

3. I will attached herewith as Exhibit B a Judicial Subpoena requesting that it be signed by the Court, so that I can get an accounting of all transactions relating to the above premises.

WHEREFORE, it is respectfully requested that the Court sign the Judicial Subpoena, which would compel the

bank to give me a complete accounting, and for such other and further relief as may be just and proper.

S/_____
ANNE M. GLAVEY

Sworn to before me on

June 11, 2001

S/_____
William T. Kelly

NOTARY PUBLIC

William T. Kelly
Notary Public, State of New York
No. 4724547
Qualified in Westchester County
Commission Expires March 29, 2003

COUNTY OF Court

Index No. 20452/91

_____X

DIME SAVINGS BANK OF NEW YORK,

Plaintiff

Calendar No.

JUDICIAL SUBPOENA DUCES TECUM

*-against-*

ANNE M. GLAVEY

Defendant

_____X

**The People of the State of New York**

To CHEMICAL BANK, aka CHASE, 407 Broadway, New York, N.Y. 10013.

WE COMMAND YOU, That all business and excuses being laid aside, you and each of you appear and attend before the Supreme Court of the State of New York, at 60 Centre Street, new York, Room 130 on the 26th day of June, 2001 at 9:30 o'clock in the fore ---- noon, and at any recessed or adjourned date to give testimony in this action on the part of the Receiver - Michael roberts, for 404E 66th Street, Apartment 12A, New York, N.Y. 10021 and that you bring with you, and produce at the time and place aforesaid, a certain

BANK STATEMENT, COPIES OF CHECKS, ASSOCIATED WITH MICHAEL ROBERTS AD RECEIVER OF THE

ABOVE APARTMENT, from February 22, 1995 to the present time.

now in your custody, and all other deeds, evidences and writings, which you have in your custody or power, concerning the premises.

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

WITNESS, Honorable one of the
of said Court, at the day of 19

.....

Attorney(s) for

Office and Post Office Address

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____X

DIME SAVINGS BANK OF
NEW YORK AFFIDAVIT OF SERVICE

Plaintiff

-against- Index No. 20452/91

ANNE M. GLAVEY

Defendant.

_____X

I, ANNE M. GLAVEY, defendant in the above indexed matter, do hereby state under Oath that I have mailed a copy of the Notice of Motion, Affidavit and accompanying Exhibits to:

Mr. Michael Roberts
Roberts & Roberts
Attorneys at Law
401 Broadway
New York, N.Y. 10013

on this day of June 11, 2001

Dated: New York, N.Y.
June 11, 2001

S/_____
ANNE M. GLAVEY

Sworn to before me on this
day of June 11, 2001

S/_____
William T. Kelly

NOTARY PUBLIC

William T. Kelly
Notary Public, State of New York
No. 4724547
Qualified in Westchester County
Commission Expires March 29, 2003

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____X

DIME SAVINGS BANK OF NEW YORK, FSB,
Plaintiff

Index No. 20452/91

-against-

NOTICE OF CROSS-MOTION

ANNE M. GLAVEY, and
THE BOARD OF MANAGERS
HARDENBROOK HOUSE
CONDOMINIUM,

Defendants.

_____X

PLEASE TAKE NOTICE, that upon the annexed affirmation of the discharged Receiver, Michael J. Roberts, affirmed the 20th day of June, 2001, the Discharged Receiver will cross-move this Court, submission Part, Room 130 located at 60 Centre Street, New York, New York on June 26, 2001, at 9:30 am in the forenoon of that day, or as soon thereafter as counsel may be heard, for an order.

(a) Assessing sanctions against defendant Anne M. Glavey for the making of a frivolous motion; and

(b) Awarding the discharged Receiver, Michael J. Roberts additional attorney's fees and costs for the making of

this Cross-Motion; and

(c) Such other and further relief as may be just and proper in the circumstance.

PLEASE TAKE FURTHER NOTICE, that pursuant to CPLR 2214(b) & 22 NYCRR 202.8, *et seq,* responsive papers, if any, are required to be delivered to the undersigned at least five (5) before the return date of this motion.

Dated: New York, New York
June 20, 2001

S_____
Michael J. Roberts
Attorney signature pursuant
To Section 130-1.1-a of the
Rules of the Chief Administrator
A member of the Firm of
Roberts & Roberts
Attorneys for the Discharged Receiver
401 Broadway
New York, New York 10013
(212) 226-4925

To: Anne M. Glavey
Defendant pro se
P.O. Box 1514
New York, New York 10009-8905
(212) 473-4457

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

X

DIME SAVINGS BANK OF NEW YORK, FSB,

Plaintiff

-against-

ANNE M. GLAVEY, and THE BOARD OF MANAGERS HARDENBROOK HOUSE CONDOMINIUM,

Defendants.

X

Index No. 20452/91

AFFIRMATION IN OPPOSITION AND IN SUPPORT OF CROSS-MOTION

MICHAEL J. ROBERTS, an attorney at law, duly admitted to practice in the Courts of the State of New York, hereby affirms under penalty of perjury that the following is correct:

1. I am the former Receiver for the above premise, having been discharged on February 16, 2001. I make this affirmation in opposition to the motion of the defendant Anne M. Glavey, asking the Court for permission for a judicial subpoena compelling Chemical Bank a/k/a Chase, "to supply Bank Statements, copies of checks and all other evidence and writings in their custody and power, concerning the above premises," and in support of this cross-motion.

2. It has become obvious to your affiant that defendant Glavey is a professional litigant, who will continue to make frivolous motions in this case, which has been closed and the Receiver discharged until she is stopped from making motions by this Court. Just as Ms. Glavey litigated in her personal action for many years, at great expense to all parties, she is now attempting to litigate further in this matter, which is long since over and which yielded a small fee to your affiant.

3. The relevant facts of this case are that I was appointed Receiver by order of the Hon. Edward H. Lehner, JSC, on or about February 17, 1995. After serving as Receiver for a period of time for this apartment, Ms. Glavey declared bankruptcy in December 1995. Contrary to Ms. Glavey's belief that I was no longer Receiver after December 1995, I was not discharged until February 16, 2001, when I submitted a second Final Accounting to this Court.

4. In her bankruptcy, Ms. Glavey was represented by Seth J. Farber, of the law firm of Max E. Greenberg, Trager, Toplitz & Herbst, 100 Church Street, New York, NY 10007, who duly represented her interests in the bankruptcy proceeding. Mr. Farber and I agreed to an "informal accounting", which was submitted to the Bankruptcy Court, pursuant to a consent order between the parties in the bankruptcy case, the attorneys for the Creditor, Hack, Piro, O'Day Merklinger, Wallace & McKenna, P.C., 30 Columbia Turnpike, P.O. Box 941, Floral Park, NJ 07932-0941, Seth J. Farber and myself. It was submitted to the Courts in February 1999. Based upon your affiant having produced, provided an informal Temporary Receiver's Account, which the plaintiffs and her attorneys approved, the parties agreed to an order discharging the Receiver and the Surety in his Undertaking. (A copy of the Informal Account is attached hereto as Exhibit 1).

5. The basis of that consent order was an order the United States Bankruptcy Court for the District of New Jersey, which stated that "It is further ordered that Michael Roberts, as Receiver, pursuant to the foreclosure action, pursuant to 11 U. S.C. §§ 542 and 543 is to turn over any and all proceeds he acquired as Receiver pursuant to the foreclosure action, including but not limited to the rents received for the apartment located at 404 E. 66th Street, Apt. 12A in New York, New York, (less only statutory disbursements and Receiver's commission or fee) within ten (10) days of the date of this Order. (A copy of that Order is attached hereto as Exhibit 2).

6. The payment of my fees and approval of the Temporary Receiver's Final Account, should have been sufficient to put this matter to rest. I have had this file in my possession for nearly six years, while the sole amount of money earned in this matter was $878.00. In fact, after I paid Ms. Glavey the balance of the funds in the account, I leaned that I had over paid her, because money was owed to Chase Bank for the operation of the account, subsequent to paying her money.

7. At that time there remained in the account $2,000.00 belonging to a Saziment Arolat, whose address I had been unable to locate until this year. The account was closed after the payment to Saziment Arolat.

8. Subsequent to the informal accounting, the defendant Glavey made an application for a more formal accounting to the Court. Her motion was denied, but in order to clear up any outstanding questions, I submitted a formal accounting to the Court on or about February 15, 2001. (A copy of that accounting is submitted as Exhibit 3 attached hereto).

9. The final accounting of your affiant was approved

on February 16, 2001, by an order of the Hon. Edward H. Lehner (attached hereto as Exhibit 4). That order was never appealed from and is the final order in this case.

10. It further pointed out that Ms. Glavey attempted to sue your affiant in Small Claims Court (for what, I do not now remember) but the case was dismissed with prejudice and was not renewed by her.

11. The thrust of defendant's arguments seems to deal with the payment of certain utility bills, left by Mrs. Jackie Drucker, a former tenant, which were left unpaid after she vacated the apartment. These bills were utility bills from the telephone company, Con Edison bills and cable television bills. I know nothing of these bills as the bills were not in my name, I had no control or knowledge of the situation with Ms. Drucker.

12. Ms. Drucker had been found as a tenant by Ms. Glavey and thereafter entered into a written lease with the Receiver. I had agreed upon the rental in order to help Ms. Glavey and to minimize the costs of paying a Real Estate Agent in finding a tenant for the premises during the term of the Receivership.

13. Ms. Glavey is further disturbed that although the money collected by me was held in a commercial account, at the Chase Manhattan Bank the account did not pay her interest. In fact, there were charges assessed by the bank over the course of the six years that this account was open while the matter was being litigated in both the Supreme Court and the United States Bankruptcy Court in New Jersey.

14. Contrary to Ms. Glavey's belief, her bankruptcy did

not relieve me of my statutory duties. I was not released from my duties as Receiver until I was discharged in February 2001 by order of Judge Lehner. Her claims that I held unto the account for the interest on $14,000 is ridiculous, I, for one, was glad when this action was over and glad that Ms. Glavey could hold onto her apartment.

15. All during the course of the Receivership, I was required to have a bond, I had that bond and paid all charges that were due the company.

16. It is further noted that Ms. Glavey did not bring this motion until after she had been paid. The obvious reason for this is, that had she made these motions, your affiant would have been entitled to ask the Court for additional compensation, based upon the additional and unnecessary work created by Ms. Glavey.

17. The motion before the Court is frivolous, it must be denied and sanctions assessed and paid to the proper disciplinary authorities. The actions of Ms. Glavey only continues to prolong unnecessary litigation, which has already been concluded and not appealed from by Glavey. In addition Ms. Glavey lacks standing and cannot commence an action against the Receiver without the Court's permission.

18. Furthermore, the additional work being done by the Receiver continues to go on, I feel that it is appropriate, that this additional work should be compensated for by Ms. Glavey. Your affiant, has barely been compensated in this matter, $873.00 over six years, and yet, based upon the meager amount of my earnings, Ms. Glavey continues to harass the Receiver after discharge. This conduct cannot be deterred unless the Court sanctions Ms. Glavey and awards your affiant additional

compensation in this case, as well the costs for the making of this motion.

WHEREFORE, the motion of defendant should be denied and the cross-motion should be granted in its entirety, together with such and further relief as may be just and proper in the circumstance.

Affirmed: New York, New York
June 20, 2001

S/_____
Michael J. Roberts

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____X

DIME SAVINGS BANK OF NEW YORK

Plaintiff

-against-

ANNE M. GLAVEY

Defendant.

_____X

FURTHER AFFIDAVIT OF MOTION AND IN OPPOSITION TO CROSS-MOTION

Index No. 20452/91

STATE OF NEW YORK )
) ss.:
COUNTY OF NEW YORK )

ANNE M GLAVEY, being duly sworn, deposes and says:

1. I am the Defendant in this action and the owner of the subject premises at 404 East 66th Street, Apartment 12A, New York, N.Y. 10021, and Michael Roberts was appointed Receiver on February 22, 1995.

2. I make this Affidavit if further support of my previous Affidavit and in opposition to Michael Robert's cross-motion.

3. I am a Pro se litigant in this matter and Michael Roberts is supposed to be the "Professional" receiver who continues to obstruct my "receiving" a proper and

"professional" accounting of rents, deposits and all other evidence and writings relating to the subject premises, although he placed his signature to an Indemnity Company that he "shall faithfully discharge the duties of his trust, and shall duly account for all monies received by him as such Receiver", and for which it was I who had to pay the Bond.

4. True, I have litigated this action for many years and yet never had my day in Court, but simply had my property "rubber stamped" over to the bank on a Summary Judgment Motion. And, now, Michael Roberts, the receive of my monies is attempting to stop me from filing a simple Motion for an accounting of all monies collected by him whilst he was Receiver, which I am duly entitled to.

5. It was hardly "at a great expense to all parties", except to myself when the bank attempted to take over my apartment after getting the"insider price", putting one third down on the initial payment, just had paid off my $80,000.00 in interest, with a principle balance due of $109,000.00, and an apartment worth $350,000.00 then. Surely, Michael Roberts is aware that it is never the bank who pay their legal fees, but are added to the defendants bill. $878.00 is not a small fee for doing nothing, except to cause me loss of rents, aggravation and hassle. Had I not declared Bankruptcy, certainly Michael Roberts would have bankrupt me, in any event.

6. When I declared bankruptcy in December of 1995, the Receiver is automatically dismissed. In addition to having done nothing in regards to my apartment, he held on to my $14,000.00 in rents for five years without any interest to me, which I was duly entitled to. On the $25,000.00 lodged with the New York City Department of Finance, I received $6,288.00 in interest over the same period. In addition, Michael Roberts held

two difference deposits in the amount of $2,000 respectively from tenants in my apartment and never made any deductions for the utilities, which he was well aware of and constantly reminded of. There is $2,516.96 missing from my rents. The utilities were $853.13. Apart from the $100, an additional $500 was never paid to the Indemnity Company. Further, I lost $2000 in rent owing to Michael Roberts negligence. (See letter of March 6, 2001 and attachments to Judge Lehner).

7. There was no "informal Temporary Receiver's Account" attached to or approved in Michael roberts Exhibit 1, only an amount of $878.00 stipulated as commissions to him.

8. The Order of the Bankruptcy Court (Michael Roberts Exhibit 2) was signed on January 6, 1999, wherein it states: "It is further ordered that Michael Roberts, Esq., as Receiver pursuant to the foreclosure action, pursuant to 11 U.S.C. Sections 542 and 543, is to turn over any and all proceeds he required as receiver pursuant to the foreclosure action, including but not limited to rents received for the apartment located at 404 E. 66th Street, Apt. 12A in New York, New York, (less only statutory disbursements and receiver's commission or fee) within ten (10) days of the date of this Order."

Clearly, Michael Roberts did not abide by this Order as any monies were not turned over to me until July 13, 2000 (Exhibit A). In addition, contrary to the Courts Order there were deductions made other than the statutory disbursements and receiver's commission or fee.

9. Contrary to Michael Roberts statement in number 11 & 12 of his Affirmation, the Leasing Agent was Feathered Nest

and Michael Roberts was referred to as "Landlord" or Owner" in the Lease Agreement, attached herewith as Exhibit B. He was given $2000 as Security Deposit against utilities bills. See 33 of Rider to Lease." 34. The security deposit ($2,00.00) shall be held by Michael Roberts, Receiver and will be returned to Jacqueline Drucker at the conclusion of this Agreement, after all charges in item number 33, above have paid." Michael Roberts did not pay the utilities, which eventually I had to pay, and allegedly returned the security deposit to Jackie Drucker (check 101) as per Exhibit 3 of his Exhibit. There is no copy of that check of $2000 to Mrs. Drucker or that it ever passed through my account at the bank.

10. It was only after my filing a Motion on November 16, 2000 to have a proper accounting of monies received (Exhibit C) that Michael Roberts submitted a purported formal accounting to the Court on February 15, 2001 (His Exhibit 3) by Motion was not denied, and their was an Order filed on January 19, 2001, attached herewith as Exhibit D.

11. Once again, I had nothing to do with the subsequent tenant - S.T.S. International Trading, Inc. as the Lease Agreement was drawn with the agent - Feathered Nest and Michael Roberts as Receiver. Please see Exhibit E, wherein Michael Roberts was paid the rent of $3,000.00 and $2,000.00 Security Deposit. In addition $1,500.00 was paid to Feathered Nest as a commission. This was 1995 and the tenant is supposed to get the deposit back, minus the utilities. However, once again, Michael Roberts has neither paid the utilities, held on to the tenants deposit until 2001, without any interest thereon to the tenant. Further, the individual who paid out of her own account was a Mrs. Saziment Arolat from Istanbul, Turkey and the Company in New York recently went out of business. In addition, this alleged account was only from

January 5, 2001 to February 5, 2001 and was for 404 E 16th Street, not 66th Street, (Exhibit F). There was even insufficient funds in the account for the predated check on November 9, 2000 (Exhibit G) when it allegedly cleared on January 5, 2001. Further, Michael Roberts has not shown the back of the check, or any other check, for that matter, demonstrating any endorsements.

12. Michael Roberts has been well aware, all along, that the utilities must be deducted from the security deposits and I even tried to collect by going to the Small Claims Court on 10/1/96 but the case was dismissed without prejudice, pending the turnover of funds by Michael Roberts. Please see Exhibit H.

13. An Affirmation of Michael Roberts (Exhibit I) and a proposed Ex-parte Order was submitted to the Court on February 14, 2001 and signed by the Court on February 15, 2001 (Michael Roberts Exhibit 4). I was not afforded an opportunity to oppose the affirmation or Order and it is only now that it has come to my attention.

14. My Motion is not frivolous, hardly frivolous to the way Michael roberts has handled my affairs, to his own advantage. If there is nothing to hide, then why object to a full disclosure of my affairs - "to supply Bank Statements, copies of checks and all other evidence and writing in their custody and power, concerning the above premises."

15. Michael Roberts cross-motion is dated June 20, 2001 and was received by me on Friday, June 22, 2001. Therefore it was not possible to have submitted my Answer five days before the return date of June 26, 2001.

WHEREFORE, based on all of the foregoing, it is respectfully requested that the Court grant my Motion and sign

the judicial subpoena compelling Chemical Bank a/k/a Chase to supply Bank Statements, copies of checks and all other evidence and writings in their custody and power, concerning the account of 404 East 66th Street, Apartment 12A, New York, N.Y. 10021, and deny the cross-motion.

Sworn to before me on

June 25, 2001

S/_____
ANNE M. GLAVEY

S/_____
Stephen E. Stanley

NOTARY PUBLIC
Notary Public, State of New York
No. 31-4926230
Qualified in New York County
Commission Expire April 4, 2002

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____X

DIME SAVINGS OF NEW YORK — AFFIDAVIT OF SERVICE

Plaintiff — Index No. 20452/91

-against-

ANNE M. GLAVEY

Defendant.

_____X

I, ANNE M. GLAVEY, defendant in the above indexed matter, do hereby state under Oath that I have served a copy of the Opposition papers and Exhibits, to the cross-motion of Michael Roberts, at Roberts & Roberts, Attorneys at Law, 401 Broadway, New York, N.Y. 10013,

On this day of June 25th, 2001.

Dated: New York, N.Y.

June 25, 2001 S/_____
ANNE M. GLAVEY

Sworn to before me on this
25th day of June 2001

S/_____
Stephen E. Stanley

NOTARY PUBLIC
Notary Public, State of New York
No. 31-4926230
Qualified in New York County
Commission Expire April 4, 2002
NYS SUPREME COURT
RECEIVED

June 25, 2001

I.A.S. Motion
SUPPORT OFFICE

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED:

ANNE M. GLAVEY
P.O. Box 1514
New York,
N.Y. 10009-8905

June 11, 2001

The Home Indemnity Company
59 Maiden Lane
New York
N.Y. 10013

Re: Receiver - Michael Roberts, 404E 66th Street, New York, N.Y. 10021, Apt. 12A

Dear Sir/Madam,

This letter is to put you on Notice that I have a Claim against Michael Roberts and accordingly against yourselves as a Surety Bond holder.

The Claim is based on a previous letter sent to you, copy of which I will attach. I will also enclose a copy of the Surety Bond.

Thank you for your attention to this matter.

Very truly yours,

S/_____
Anne M. Glavey

Enclosures:

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: EDWARD H. LEHNER PART 19
Justice

Index No: 20452-91
Motion Date _____
Motion Seq. No. 10
Motion Cal. No. _____

DIME SAVINGS BANK OF NY

v.

ANNE M. GLAVEY

The following papers, numbered 1 to ____ were read on this motion to/for _____

Notice of Motion/Order to Show Cause - Affidavits - Exhibits ...

Answering Affidavits - Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

_____

_____

_____

CROSS-MOTION: ☒ Yes ☐ No

Upon the foregoing papers, it is ordered that this motion
MOTION IS PERMITTED TO BE WITHDRAWN

Dated: 8-17-01 S/ _____
Edward H. Lehner, J.S.C.

Check one: ☒ Final Disposition ☐ Non-Final Disposition

NYS SUPREME COURT
RECEIVED

AUG. 20, 2001

I.A.S. MOTION
SUPPORT OFFICE

FILED
AUG. 27, 2201

COUNTY CLERK'S OFFICE
NEW YORK

MAIT, WANG & SIMMONS
Attorneys at Law
Suite 507
217 Broadway
New York, NY 10007-2909

Telephone (212) 791-8400
Facsimile (212) 571-0070
Email Maitwang@aol.com

New Jersey Office
90 Woodbridge Center Drive
Suite 150
Woodbridge, NJ 07095
Telephone (732) 404-1220
Facsimile (732) 404-1644

September 7, 2001

BY CERTIFIED MAIL R.R.R.

Ms. Ann M. Glavey
P.O. Box 1514
New York, New York 10009-8905

Re: Principal : Michel Roberts
Bond No. : NB F764737
Our File No. : 1630

Dear Ms. Glavey:

This firm represents Risk Enterprise Management, Ltd. ("REM") which handles claims investigations relative to matters involving The Home Indemnity Company ("Home").

This will acknowledge receipt of your June 11, 2001 letter to Home in connection with the above referenced matter involving Michael Roberts and Home's Bond No. NB F764737

issued in connection with his receivership.

Please be advised that a consent order dated March 27, 2000, and filed on March 28, 2000 (copy enclosed), approving the final account of Michael Roberts as Receiver was duly entered and approved by the court by Judge Edward H. Lehner. That order was submitted upon consent of all parties to the proceeding and signed off by your then attorney, Seth J. Farber. Thereafter, an additional order was entered on February 16, 2001, discharging Mr. Roberts and thereby Home as his surety under the above referenced undertaking.

As a result of the foregoing, it is Home's position that any claim that you may have had against Mr. Roberts arising out of the Receivership proceeding was discharged and no further claim can be made against Home under its bond.

Should you require any additional information regarding this matter, please direct any further correspondence to this office to the undersigned.

Very truly yours,

MAIT, WANG & SIMMONS

S/_____
WILLIAM R. MAIT

WRM:rb
Encls.

CIVIL COURT OF THE CITY OF NEW YORK
SMALL CLAIMS PART
STATEMENT OF CLAIM

(Your) I CLAIMANT'S INFORMATION

| | |
|---|---|
| LAST NAME | Glavey |
| FIRST NAME | Anne |
| ADDRESS | P.O. Box 1514 |
| BOROUGH, CITY, TOWN OR VILL | New York STATE NY ZIP 10009 |
| PHONE NO. | 212-473-4457 |

(Their) II DEFENDANT'S INFORMATION

| | |
|---|---|
| LAST NAME | Roberts |
| FIRST NAME | Michael |
| ADDRESS | 401 Broadway |
| BOROUGH, CITY, TOWN OR VILL | New York STATE NY ZIP 10013 |
| PHONE NO. | 212-226-4925 |

III CLAIM

Amount Claimed: $3,000 (Maximum $3,000)
Date of Occurrence or Transaction: Sept. 30, 1995

PRIMARY REASON FOR CLAIM:

| | |
|---|---|
| Damage caused to: | real property |
| Failure to provide: | proper *** |
| Failure to return: | security |
| Failure to pay: | for services rendered; rent |
| Breach of: | contract |

Loss of:
Returned:
Other: (Be brief) Defendant failed to pay utilities from deposit, in addition to keeping rents (collected)

IDENTIFYING NUMBERS - Receipt #, Claim #, Account #, Policy #, Ticket #, License #, Plate #'(s) _____

September 21, 2001
Today's Date

S/_____
Anne M. Glavey
Signature of Claimant's Agent

CIVIL COURT OF THE CITY OF NEW YORK
SMALL CLAIMS PART
STATEMENT OF CLAIM

(Your) I CLAIMANT'S INFORMATION

| | |
|---|---|
| LAST NAME | Glavey |
| FIRST NAME | Anne |
| ADDRESS | P.O. Box 1514 |
| BOROUGH, CITY, TOWN OR VILL | New York STATE NY ZIP 10009 |
| PHONE NO. | 212-473-4457 |

(Their) II DEFENDANT'S INFORMATION

| | |
|---|---|
| LAST NAME | The Home Indemnity Company |
| FIRST NAME | |
| ADDRESS | 59 Maiden Lane |
| BOROUGH, CITY, TOWN OR VILL | New York STATE NY ZIP 10007 |
| PHONE NO. | |

III CLAIM

Amount Claimed: $3,000 (Maximum $3,000)
Date of Occurrence or Transaction: Sept. 30, 1995

PRIMARY REASON FOR CLAIM:

| | |
|---|---|
| Damage caused to: | real property |
| Failure to provide: | proper *** |
| Failure to return: | DEPOSIT |
| Failure to pay: | for services rendered |
| Breach of: | contract |
| Loss of: | |

Returned:
Other: (Be brief) Receiver of my rents has kept monies belonging me, insured by bond company, Did not pay utilities.

IDENTIFYING NUMBERS - Receipt #, Claim #, Account #, Policy #, Ticket #, License #, Plate #'(s) _____

September 21, 2001
Today's Date

S/_____
Anne M. Glavey
Signature of Claimant's Agent

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: SMALL CLAIMS PART

_____X

ANNE GLAVEY,

Claimant,

-against-

MICHAEL M. ROBERTS,

Defendant.

_____X

Small Claims
Index No. 5482/01

NOTICE OF MOTION TO DISMISS THE PROCEEDING

PLEASE TAKE NOTICE, that upon the annexed affirmation of Michael J. Roberts, affirmed the 23rd day of October, 2001, and upon all the pleading and proceedings heretofore had, a motion will be made in the Small Claims Part of this Court, to be held at the courthouse thereof, located at 111 Centre Street, New York, New York 10013, on October 25, 2001, at 6:10 p.m. in the afternoon of that day, or as soon thereafter as counsel can be heard for an ORDER:

(1) Dismissing this proceeding upon the grounds that the Claimant has no standing to bring this proceeding; and further

(2) Dismissing this proceeding because Claimant has failed to obtain the permission of the Supreme Court prior to bringing this proceeding; and

(3) Granting the defendant an award of sanctions and costs against the Claimant upon the ground that this is a frivolous action; and

(4) For such other and further relief as this Court may deem just and proper in the circumstance.

PLEASE TAKE FURTHER NOTICE, that pursuant to CPLR 2214(b) & 22 NYCRR 202.8, *et seq,* responsive papers, if any, are required to be delivered to the undersigned at least five (5) before the return date of this cross-motion.

Dated: New York, new York
October 23, 2001

S/_____
Michael J. Roberts
Attorney Signature Pursuant
To Section 130-1.1-a of the
Rules of the Chief Administrator
A member of the firm of
Roberts & Roberts
Attorneys for Defendant
401 Broadway
New York, New York 10013
(212) 226-4925

To: Anne M. Glavey
Claimant, pro se
285 Avenue C, Apt. 4A
New York, New York 10009

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: SMALL CLAIMS PART

_____X

ANNE GLAVEY,

Claimant,

-against-

MICHAEL M. ROBERTS,

Defendant.

_____X

Small Claims
Index No. 5482/01

AFFIRMATION IN SUPPORT OF MOTION TO DISMISS

MICHAEL J. ROBERTS, an attorney at law, duly admitted to practice in the Courts of the State of New York, hereby affirms under penalty of perjury that the following is correct:

1. I am the Defendant in the above proceeding and I make this affirmation in support of my motion to dismiss this proceeding.

2. Your affiant was appointed Receive of Apartment 12A, located at 404 East 66th Street, new York, New York 10021, by the Hon. Edward H. Lehner, by way of an order dated February 7, 1995. The claimant Anne Glavey was a tenant in that apartment.

3. Thereafter, the Claimant filed for protection in the United States Bankruptcy Court. The claimant was represented in the bankruptcy proceeding by SETH J. FARBER of the firm of MAX E. GREENBERG, TRAGER, TOPLITZ & HERBST,

100 Church Street, New York, NY 10007. The debtor was discharged and your affiant was ordered by the Bankruptcy Court to return funds to the debtor. Your affiant turned over the proceeds as ordered to the claimant's bankruptcy attorneys. Thereafter your affiant's obligations to the debtor was deemed satisfied by the Bankruptcy Court. (A copy of the order of the Bankruptcy Court is attached hereto as Exhibit A).

4. It is pointed out that this action is brought as a pro se action in the Small Claims Part. Claimant knowing that all obligations of receiver were adjudicated in both the Bankruptcy proceeding and the Receivership action in Supreme Court brings frivolous action only to harass the Receiver.

5. Thereafter, your affiant's work as the Receiver for the apartment ended upon the filing of a final Accounting with the Court. (A copy of the Ex-Party order discharging your affiant as Receiver is attached hereto as Exhibit B). In addition please find a copy of the So-Ordered Consent Order Approving Receiver's Final Accounting, signed by Claimant's lawyer as well as a copy of the Stipulation settling the matter, which are attached hereto as (Exhibit C).

6. For the reasons set forth herein, it is evident that this action must be dismissed in its entirety and costs awarded to the defendant Michael J. Roberts.

7. It is pointed out that a Receiver may not sue or be sued without the express permission of the Court that appointed him. See *Kilarjuan v. Kilarjian,* 32 A.D.2d 542, 299 N.Y.S.2d 750), where the court held:

> This rule "was devised in order to protect the receiver and the estate against the harassment

> and expense of possibly unnecessary litigation and to preserve the estate in the hands of the receiver for the benefit of all creditors equally"(*Copeland v. Salomon*, 56 N.Y.2d 222, 228, 451 N.Y.S.2d 682, 436 N.E.2d 1284).

This view was reiterated and followed by the Appellate Division, Second Department, in the case of *Independence Savings Bank v. Triz Realty Corp.*, 473 N.Y.S.2d 568 (A.D. 2 Dept. 1984). In that action, where the facts and circumstances were very similar to this one, the Department of Housing Preservation and Development sought an order directing the Receiver to provide heat and hot water to an apartment building. The Receiver moved to enjoin the Department from conducting proceedings in the Civil court on the ground that he had not been sued in his capacity "as receiver" and that HPD had not sought leave to sue from the Supreme Court. In that case, the Court found that the Receiver could not be sued without the express permission of the Court that appointed him, even if the action or proceeding is to enforce the housing code.

WHEREFORE, the proceeding should be dismissed in the entirety, the Claimant should be sanctioned and costs and legal fees should be assessed in favor of the defendant, together with such other, further or different relief as to this court seems just and proper.

Affirmed: New York, New York
October 23, 2001

S/_____
MICHAEL J. ROBERTS

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK

_____X

Small Claims

AINE GLAVEY, aka ANNE No. 5482/01

CLAIMANT/Plaintiff, AFFIDAVIT IN OPPOSITION

-against-

MICHAEL M. ROBERTS,

Defendant.

_____X

STATE OF NEW YORK )
)ss.:
COUNTY OF NEW YORK )

AINE GLAVEY, being duly sworn, deposes and says:

1. I am the Claimant in this case. I submit this affidavit in opposition to the motion to dismiss filed by defendant Michael M. Roberts.

2. This action is for a claim for money had and received or not otherwise not properly accounted for by defendant Roberts during a period when he was a court-appointed receiver for certain property, to wit, apt. 12A, 404 East 66th St., New York, NY, ("the apartment") per a foreclosure action entitled Dime Savings Bank of NY v. Aine Glavey, Index No. 20452/91, Supreme Court, New York County.

3. As a preliminary matter, I submit that Mr. Roberts' motion is defective and should be denied because it is supported solely by his affirmation, which is entirely improper under CPLR 2106, because Mr. Roberts uses an affirmation in a case in which he is a party.

4. Mr. Roberts argues that because I was not a tenant in the subject unit during his receivership, I lack standing to bring this proceeding. In fact, this is incorrect for two reasons. First, pursuant to the leases for the apartment during his receivership, tenant's security deposits were to be applied to payment of utility bills (telephone, electricity, etc.) That were not paid by the tenants. In fact, as I will establish at trial, this amounted to just under a thousand dollars, which rather than apply to the utility bills as per the lease agreements, Mr. Roberts (allegedly) returned to the tenants themselves, resulting in my having to incur those expenses instead of the tenants. Further, I contend that Mr. Roberts has either not accounted for all of the moneys he received (the leases show that during the receivership he was entitled to receive several thousand dollars more than he accounted for, and there has never been an explanation for this), or was grossly negligent in failing to take any efforts to collect funds that were due during the period of the receivership. Thus, I have standing to bring this action.

5. As to Mr. Roberts' arguments concerning the prior order in the bankruptcy court, a review of that order shows that the only dollar figure was the $878 of Mr. Roberts' statutory compensation as receiver, a number to which I have never objected. Any waiver associated with that prior order was nonexistent: Mr. Roberts did not submit his "final accounting" to the Supreme Court until nearly two years after the bankruptcy court order–and that later accounting is the basis of this suit.

6. Finally, Mr. Roberts argues that as a receiver, he cannot be sued absent permission of the Court that appointed him, and cites Kilarjian v. Kilarjian, 32 A.D.2d 542 (2nd Dept. 1969) and Independence Savings Bank v. Brown, 100 A.D.2d 613 (2nd Dept. 1984) for the proposition that he *cannot* be sued absent permission of the appointing court. It appears, however, that the policy behind this rule is the protection of the "res" - fund which Mr. Roberts maintained as receiver. That fund has now been, at least according to Mr. Roberts, distributed, and thus, the policy seems inapplicable. Furthermore, in the Independence case, it appears that the very same type of motion brought by the receiver there was denied with leave to seek the permission of the Supreme Court to sue the receiver. I expressly request this Court, if it deems that rule applicable here, to extend me the same leave. In either event, Mr. Roberts' motion should be denied one way or another.

WHEREFORE, for the foregoing reasons, the motion of defendant Michael M. Roberts to dismiss should be denied, either in all respects, or this action stayed with leave to seek permission or the Supreme Court to bring this action.

S/_____

Aine Glavey
285 Ave. C., Apt 4A
New York, N.Y. 10009
212-473-4457

Sworn to before me this
Day of December, 2001

S/_____
William Kelly
Notary Public

William T. Kelly
Notary Public, State of New York
No. 4724547
Qualified in Westchester County
Commission Expires March 29, 2003

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: SMALL CLAIMS PART
_____X

ANNE M. GLAVEY, Index No.: SCNY 5483/01

Claimant,

ANSWER

-against-

THE HOME INDEMNITY COMPANY

Defendant.
_____X

Defendant, The Home Indemnity Company ("Home"), by its attorneys, Mait, Wang & Simmons, as and for its answer to the notice of claim, alleges as follows:

1. General denial.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

2. Defendant's Receiver's Bond No. NBF 78-47-37 has been discharged and by reason thereof, it has no liability to claimant under its Bond.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

3. Defendant's principal, Michael J. Roberts, under Bond No. NBF 78-47-37 has been discharged as Receiver and thereby defendant can have no liability for the acts of the Receiver under its bond.

WHEREFORE, defendant The Home Indemnity Company demands judgment dismissing the notice of claim, together with the costs and disbursements of this action, and such other an further relief as the Court deems just and proper.

Dated: New York, New York
October 25, 2001

S/_____
WILLIAM R. MAIT
Mait, Wang & Simmons
Attorneys for Defendant
The Home Indemnity Company
217 Broadway, Suite 507
New York, NY 10007
(212) 791-8400

To: ANNE M. GLAVEY
285 Ave. C. Apt. 4A
New York, NY 10009

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: SMALL CLAIMS PART
_____X

ANNE M. GLAVEY, Index No.: SCNY 5483/01

Claimant,

-against-

DEFENDANT'S NOTICE OF MOTION FOR SUMMARY JUDGMENT

THE HOME INDEMNITY COMPANY

Defendant.
_____X

S I R S :

PLEASE TAKE NOTICE, that upon the annexed affidavit of William R. Mait sworn to on the 10th day of January 2002, and the exhibits annexed thereto, and upon the papers and proceedings heretofore filed herein, the defendant, The Home Indemnity Company, will move this Court at Small Claims Part at the Courthouse at 111 Centre Street, New York, New York on January 23, 2002 at 6:30 in the afternoon of that day, or as soon thereafter as counsel can be heard for an order pursuant to Rule 3212 on Civil Practice Law and Rules granting defendant summary judgment dismissing plaintiff's claim on the grounds that upon the proof submitted herewith plaintiff's claim fails to state any material issue of fact which requires a trial and the defenses asserted in defendant's answer are established sufficiently to warrant the court as a matter of law to direct judgment in favor of the defendant, together with costs and such other and further relief as this Court may deem to be just and

proper.

Dated: New York, New York
January 10, 2002

S/_____
WILLIAM R. MAIT
Mait, Wang & Simmons
Attorneys for Defendant
The Home Indemnity Company
217 Broadway, Suite 507
New York, New York 10007
(212) 791-8400

TO: ANNE M. GLAVEY
285 Ave. C. Apt. 4A
New York, NY 10009

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: SMALL CLAIMS PART
_____X

ANNE M. GLAVEY, Index No.: SCNY 5483/01

Claimant,

-against-

AFFIDAVIT IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

THE HOME INDEMNITY COMPANY

Defendant.
_____X

STATE OF NEW YORK )
)ss.:
COUNTY OF NEW YORK )

WILLIAM R. MAIT, being duly sworn, deposes and says,

1. I am a member of the firm of Mait, Wang & Simmons, attorneys for the defendant, The Home Indemnity Company, (hereinafter "Home"). I make this affidavit in support of Home's motion for an order pursuant to CPLR 3212 granting Home summary judgment against the claimant, Anne M. Glavey (hereinafter "claimant"), on the ground that the statement of claim asserted in the small claims notice fails to sufficiently state any issue of material fact which requires a trial, and that the defenses asserted in Home's answer are established sufficiently to warrant the court as a matter of law

to direct judgment in Home's favor. The statements set forth in this affidavit are based upon the documents submitted herewith, and upon the pleadings and prior proceedings had herein.

2. This action was commenced on October 25, 2001, upon the claimant's filing of a notice of claim with the Clerk of Civil Court of the City of New York, Small Claims Part. Claimant's notice reads as follows, "Receiver of my rents has kept monies belonging to me, insured by the bond company, did not pay utilities." Based upon the foregoing statement, claimant seeks $3,000 in damages. A copy of the statement of claim is annexed hereto as Exhibit "1".

3. On October 25, 2001, the defendant, Home, filed its answer containing a general denial and two affirmative defenses. The first affirmative defense asserts that Home's Receiver's Bond No. NBF 78-47-37 issued in favor of the People of the State of New York, as obligee, has been discharged and by reason thereof, Home has no liability to the claimant under its bond. Home's second affirmative defense asserts that Home's principal, Michael Roberts (hereinafter "Roberts"), has been discharged as Receiver under Bond No. NBF 78-47-37 and therefore Home can no longer be liable for any alleged acts of the Receiver under its bond. A copy of Home's answer is annexed hereto as Exhibit "2".

4. In a mortgage foreclosure proceeding entitled "The Dime Savings Bank of New York, FSB, v. Ann M. Glavey, and the Board of Managers Hardenbrook House Condominium", in the Supreme Court, New York County, Index # 20452/91, by order entered on February 10, 1995, Roberts was appointed as the Receiver of apartment 12A located at 404 East 66th Street, New York, New York 10021 in which the claimant previously was a tenant thereof. A copy of the order of appointment is

annexed hereto as Exhibit "3".

5. In order to qualify as Receiver, on February 21, 1995, Home, acting in its capacity as a surety, issued its Receiver's Bond No. NBF 78-47-37 on behalf Roberts, in the amount of $5,833.00. A copy of the Bond is annexed hereto as Exhibit "4".

6. In connection with the receivership proceedings a consent order was entered on March 28, 2000, between among others, the claimant herein and Roberts, pursuant to the terms of which the final account of Roberts, as Receiver, was approved, ratified and confirmed, and further provided that Roberts would be discharged in his capacity as Receiver, that his surety, Home, likewise would be discharged from its undertaking and that the undertaking would be canceled upon the Receiver making the payments set forth in said order and upon the submission of an ex parte order to discharge the undertaking. A copy of the consent order is annexed hereto as Exhibit "5".

7. Thereafter upon the subsequent filing and entry of an ex parte order on February 16, 2001, the Supreme Court, by Justice Edward H. Lehner, discharged Roberts from any further liability and intended to discharge Home's bond; however, Fidelity and Deposit Company of Maryland was inadvertently named as the bonding company in the order instead of Home. The only bond issued on behalf of Roberts, as Receiver, was by Home. In December 2001, a revised order was submitted to Justice Lehner naming Home as the surety to be discharged from all obligations relating to the receivership proceeding, and that order is sub judice before the court. A copy of the February 16, 2001 order is annexed hereto as Exhibit "6".

8. Notwithstanding the obvious ministerial error in the

February 16th order, once Home's principal, Roberts, was granted his discharge, his surety, Home, can have no further liability for any of the acts of the Receiver under its Bond. Moreover, upon the entry of the resubmitted order Home's Receiver's bond No. 78-47-37 will be formally canceled, of no effect and will be discharged as of record.

WHEREFORE, deponent respectfully requests that summary judgment be granted to the defendant, Home, dismissing the statement of claim together with costs and such other and further relief as this court deems just and proper.

S/_____
WILLIAM R. MAIT

Sworn to before me this
10th day of January 2001

S/_____
Patricia A. Cruz
Notary Public

Patricia A. Cruz
Notary Public, State of New York
No. 41-4503812
Qualified in Queens County
Commission Expires 5/31/03

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK, SMALL CLAIMS PART
_____X

ANNE M. GLAVEY,

Claimant, Index No.: SCNY 5483/01

-against-

THE HOME INDEMNITY COMPANY,

Defendant.

_____X

DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT

MAIT, WANG & SIMMONS
Attorneys at Law
217 Broadway
New York, NY 10007

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK, SMALL CLAIMS PART

X

ANNE M. GLAVEY,

Claimant, Index No.: SCNY 5483/01

-against-

THE HOME INDEMNITY COMPANY,

Defendant.

X

DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT

This memorandum of law is submitted in support of defendant's, The Home Indemnity Company (hereinafter "Home"), motion for an order granting summary judgment against plaintiff dismissing the complaint pursuant to CPLR §3212.

The facts and the prior proceedings herein are fully set forth in the accompanying affidavit of William R. Mait sworn to on January 10, 2002 (the "Mait affidavit") and the exhibits annexed thereto, to which the Court is specifically referred.

## POINT I

## HOME'S PRINCIPAL UNDER IT BOND HAS BEEN DISCHARGED AS RECEIVER AND THEREFORE HOME CAN HAVE NO LIABILITY FOR THE ACTS OF THE RECEIVER UNDER ITS BOND.

In connection with an underlying mortgage foreclosure proceeding in which Home issued its Receiver's bond NBF 78-47-17 on behalf of its principal, Michael Roberts, ("Roberts"), a consent order Exhibit "5" to the Mait affidavit was entered on March 28, 2000, pursuant to which Roberts was to be discharged in his capacity as Receiver, and his surety, Home, Likewise would be discharged from its undertaking and it bond canceled. Anne M. Glavey, the claimant herein, was a party to that consent order.

Subsequent to the entry of that consent order, an ex-parte order was entered on February 16, 2001, (Exhibit "6" to the Mait affidavit) by Supreme Court Justice Edward H. Lehner, discharging Roberts from any further liability. That order had intended to discharge Home and its bond, however, the name Fidelity and Deposit Company of Maryland was inadvertently inserted into that order as the bonding company instead of Home. In December 2001, a revised order was submitted by Roberts to Justice Lehner naming Home as the surety to be discharged from all obligations relating to the receivership proceeding and that order is sub judice.

Notwithstanding the obvious ministerial error in the February 16, 2001 order, once Roberts was granted his discharge, Home, as his surety, can have no further liability for any of the acts of Roberts under its Bond.

It is a well settled principle of suretyship that a surety can have no greater obligation than its principal, and that if a principal's liability has been discharged, the surety's liability is likewise terminated. Thus the court in County of Rockland v. Aetna Casualty & Surety Co., 129 A.D.2d 606, 514 N.Y.S.2d 102 (2d Dept. 1987), held that once a determination was made in an arbitration proceeding that the obligee had no cause of action against surety's principal for default on the subject contract, the obligee was collaterally estopped from subsequently suing the surety for its alleged failure to honor its obligation as surety. See also e. g., Dimacopoulos v. Consort Development Corp., 158 A.D.2d 658, 522 N.Y.S.2d 124 (2d Dept. 1990); Venus Mechanical Inc. v. Insurance Co. of North America, 245 A.D.2d 559, 667 N.Y.S.2d 60 (2d Dept. 1997).

Not only was Home's principal's (Roberts) liability as receiver discharged in the underlying receivership proceeding, the claimant herein consented to the entry of the order authorizing such discharge. By reason thereof, and as a matter of law the claimant is estopped from making any claim against Home on its bond and defendant's motion for summary judgment must be granted in all respects.

## POINT II

## SUMMARY JUDGMENT IS AN APPROPRIATE REMEDY AS HOME'S DEFENSES HAVE BEEN ESTABLISHED AS A MATTER OF LAW AND THERE ARE NO TRIABLE ISSUES OF FACT REQUIRING A TRIAL

The remedy of summary judgment is designed to expedite all civil cases by eliminating from the trial calendar

claims which can properly be resolved as a matter of law. Andre v. Pomeroy, 35 N.Y.2d 361, 362 N.Y.S.2d 131 (1974); Possenti v. Lanza, 54 A.D.2d 728, 387 N.Y.S.2d 679 (2nd Dept. 1976).

In determining whether there are triable issues of fact, the court, on a motion for summary judgment, searches the proof as proffered by affidavit, or otherwise, to ascertain whether it discloses real, triable issues of fact, and if there is nothing in truth to be tried, summary judgment should be granted. Schillinger v. North Hills Realty Corp., 15 A.D.2d 539, 222 N.Y.S.2d 972 (2nd Dept. 1961), aff'd, 11 N.Y.2d 1044, 230 N.Y.S.2d 33 (1962).

It is well settled that "[t]he remedy of summary judgment should be granted in those cases where there are no true factual issues and it is reasonably certain that all facts can be established with due diligence without a trial." Yates v. Cohoes Memorial Hospital, 64 A.D.2d 726, 406 N.Y.S.2d 893 (3rd Dept. 1978), appeal dism'd, 45 N.Y.2d 836, 409 N.Y.S.2d 215 (1978).

Contentions not supported by any evidentiary showing of a semblance of an issue of fact are not sufficient to defeat a motion for summary judgment. Proctor & Gamble v. Lawrence Ware Corp., 16 N.Y.2d 344, 266 N.Y.S.2d 785 (1965). See also e.g., Zuckerman v. City of New York, 49 N.Y.2d 557, 427 N.Y.S.2d 595 (1980); Hirsch v. S. Berger Import & Manufacturing Corp., 67 A.D.2d 30, 414 N.Y.S.2d 324 (1st Dept. 1979), app. dism'd. 47 N.Y.2d 1008, 420 N.Y.S.2d 221 (1979).

A party cannot resist a motion for summary judgment by mere conclusory assertions, conjecture or suspicion or by

repetition of the allegations contained in the pleadings. Ehrlich v. American Moninger Greenhouse, 26 N.Y.2d 255, 309 N.Y.S.2d 341 (1970); Indig v. Finkelstein, 23 N.Y.2d 728, 296 N.Y.S.2d 370 (1968); Matsushita Electric Corp. v. Jamaica Gas & Electric, 44 A.D.2d 708, 354 N.Y.S.2d 695 (2nd Dept. 1974); Mallad v. County Federal Savings & Loan, 32 N.Y.2d 285, 344 N.Y.S.2d 925 (1973); Forray v. New York Hospital, 101 A.D.2d 740, 475 N.Y.S.2d 57 (1st Dept. 1984).

Defendant has established as a matter of law its affirmative defenses that it cannot have any liability under its Receiver's Bond No. NBF 78-47-37. Home's principal, Michael Roberts, has been discharged as Receiver under Bond No. NBF 78-47-37 and therefore Home can no longer be held liable for any alleged acts of the Receiver under its bond. By reason thereof, there are no genuine issues of fact, and as a matter of law defendant's motion for summary judgment should be granted in all respects.

## CONCLUSION

By virtue of the foregoing, Home's motion for summary judgment dismissing the complaint should be granted in all respects, together with such other and further relief as the Court deems just and proper.

Respectfully submitted,

S/_____

WILLIAM R. MAIT
Mait, Wang & Simmons
Attorneys for Defendant

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January 11, 2002

Michael J. Roberts, Esq.
Roberts & Roberts
401 Broadway
New York, NY 10013

Re: Anne M. Glavey v. The Home Indemnity Company
Our File No. 1630

Dear Michael:

For your reference, I am enclosing herewith our motion (without exhibits) for summary judgment to dismiss the civil court small claims proceeding brought against Home on its bond written on your behalf as principal. Like your motion to dismiss, our motion is returnable on January 23, 2002, the

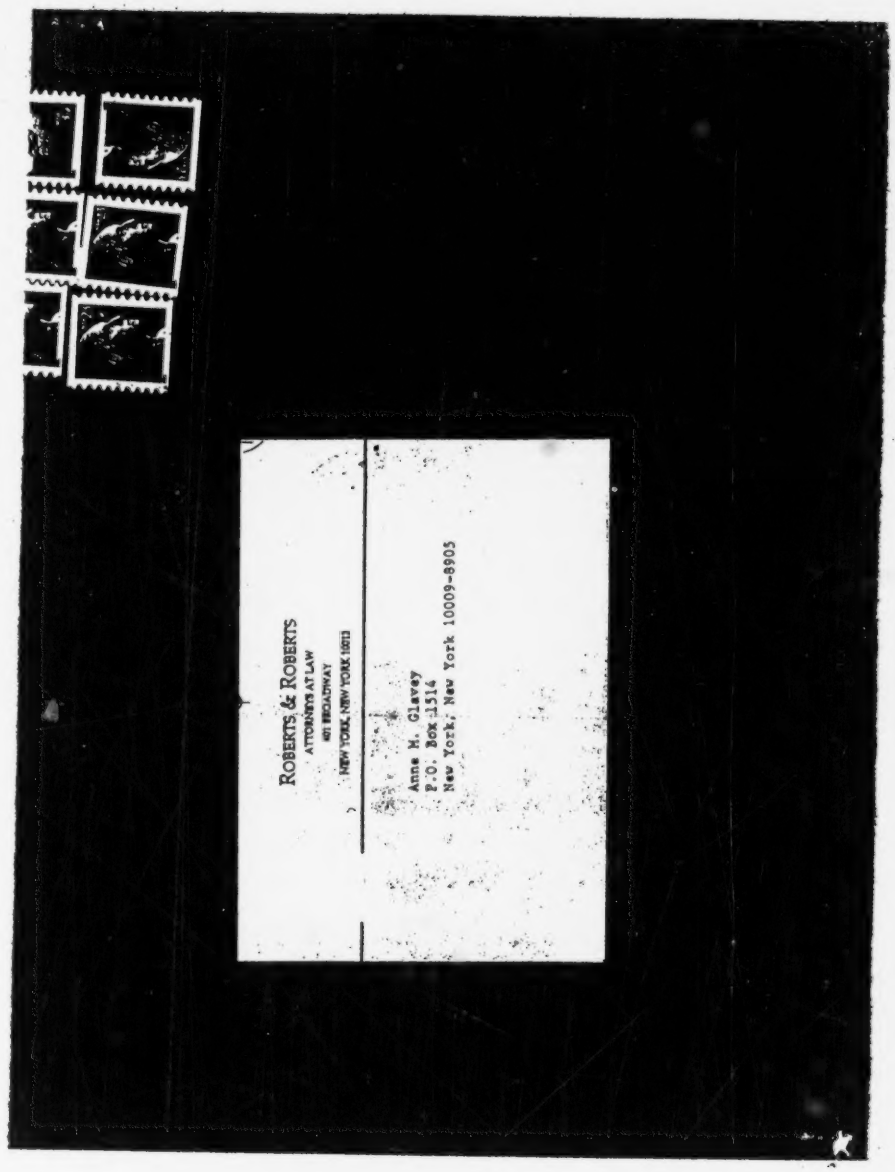
adjourned date of the small claims hearing date.

Please let me know if Judge Lehner has signed the amended ex parte order discharging Home's bond. Hopefully, it will be signed prior to the January 23, 2002 hearing.

Very truly yours,
MAIT, WANG & SIMMONS

S/_____
William R. Mait

WRM:rb
Encl.


ROBERTS & ROBERTS
ATTORNEYS AT LAW
401 BROADWAY
NEW YORK, NEW YORK 10013
Anne H. Glavey
P.O. Box 1514
New York, New York 10009-8905

Civil Court of the City of New York
County of NY Index Number 5482/01 & 5483/01
Hon. ____
Part Date

Anne Glavey
Action 1 Plaintiff(s)/Petitioner(s),

against

Michael M. Roberts
Action 2 Glavey v. The Home Indemnity,
Defendant(s)/Respondents(s)

STIPULATION OF SETTLEMENT

The parties understand that each party has the right to a trial, the right to see a Judge at any time and the right not to enter into a stipulation of settlement. However, after a review of all the issues, the parties agree that they did not want to go to trial and instead agree to the following stipulation in settlement of the issues in this matter:

1. Plaintiff's complaint is dismissed without prejudice, in action No. 1 and No. 2.

2. Plaintiff can seek leave of Supreme Court to bring action against receiver.

3. Home Indemnity may renew motion of Summary Judgment if leave of Supreme Court obtained.

S/_____
Michael Roberts

S/_____ S/_____

Seth & Farber, Esq.
Atty for Plaintiff

Stuart Rosen
Counsel for Defendant

Mait, Wang & Simmons

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED:

ANNE M. GLAVEY,
P.O. Box 1514,
New York,
N.Y. 10009-8905

March 3, 2002.

Mr. Michael J. Roberts,
Receiver, 404 East 66th St., Apartment 12A, N.Y.C.
Roberts & Roberts
401 Broadway,
New York, N.Y. 10013.

Dear Mr. Roberts,

I refer to the above apartment when you were receiver from February 1995 to December 1995, and for which you entered into Lease Agreements with two different tenants - namely, Mrs. Jackie Drucker and Mrs. Saziment Arolat, who both were responsible for paying for all utilities and for which you held a deposit of $2000 from each respectively, in this regard.

However, according to your accounting you have stated that you have returned both Security Deposits, without any deduction, whatsoever of the utility Bills.

Please supply me with the addresses of the above two tenants where the deposits were sent, so that I turn can correspond to them regarding the payment of the utility bills, which amounted to over $800.00.

Thank you for your attention to this matter.

Very truly yours,
S/_____
Anne M Glavey.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ORAL ARGUMENT REQUESTED

----------X
DIME SAVINGS BANK OF NEW YORK

Plaintiff,

-against-

NOTICE OF MOTION
Index No. 20452/91

ANNE M. GLAVEY,

Defendants.
----------X

PLEASE TAKE NOTICE that upon the Affidavit of Anne M. Glavey, defendant herein, sworn to on March 05, 2002 will move this Court, located at 60 Centre Street, Room 130, New York, New York, 10013, on March 29, 2002 at 9.30 o'clock in the forenoon, or as soon thereafter as can be heard, for an Order for Permission to sue Receiver - Michael J. Roberts, who was appointed receiver of my apartment, located at 404 East 66th Street, #12A, New York, N.Y. 10021, form February 1995 to December 1995, and who leased my apartment to various tenants and collected the rents therefrom, and show accounting of such transaction has fallen far short of rents collected, unnecessary vacancy and unpaid utilities bills, interest.

Defendant will rely on attached Affidavit and accompanying Exhibits.

Dated: March 05, 2002.
New York, N.Y.

ANNE M GLAVEY,
P.O. Box 1514,
New York, N.Y. 10009-8905.
212-473-4457

TO: Michael Roberts, Esq.,
Roberts & Roberts,
Attorneys at Law,
401 Broadway,
New York, N.Y. 10013.

cc: Mr. Seth Farber,
Attorney at Law
60 East 42nd Street, S. 1402,
New York, N.Y. 10017.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X

DIME SAVINGS BANK OF NEW YORK

Plaintiff,

-against-

AFFIDAVIT
Index No. 20452/91

ANNE M. GLAVEY,

Defendants.

----------X

State of New York )
) ss.:
County of New York )

ANNE M GLAVEY, being duly sworn, deposes and says:

1. I am the Defendant in this action and the owner of Apartment 12A, 404 E 66th Street, New York, N.Y. 10021 and Michael Roberts was appointed Receiver on February 22, 1995, Order of which by Judge Lehner is attached herewith as Exhibit A.

2. On page 3 of the Order, it states: "that said Receiver forthwith deposit all moneys received by him at the time he receives the same in his own...name as Receiver in Chemical Bank insured by the FDIC and no withdrawals shall be made therefrom except as directed by the Court or on a draft or check signed by the Receiver and countersigned by the surety on his undertaking; and said depository shall send monthly statements of deposits into and withdrawals from the

said account to the Receiver and also the attorney for the plaintiff;"

In essence, since my rents belonged to defendant, surely I am entitled to have the monthly statements of deposits into and withdrawals forwarded to me.

3. Judge Lehner changed the one year to two years to "rent any part of said premises". (i.e. my apartment).

4. Judge Lehner also states: :Receivership shall continue until the further Order of the Court."

The Court never got that privilege, as, indeed, I filed for Bankruptcy Protection, which automatically removed the Receiver, before he bankrupt me.

5. December, 1995, Mr. Roberts was holding $14,000.00 in rents from my apartment, in addition to $4,000.00 Deposit from two different tenants, from which he was supposed to pay the Utilities, which he did not. In December, 1995, there was nothing stopping Mr. Roberts from turning over my rents to me, but instead held on to all monies as long as possible, thus taking the interest for himself.

6. On December 8, 1995, I wrote Mr. Roberts regarding the deposits of the two former tenants - namely, Mrs. Jacqueline Drucker and Mrs. Saziment Arolat, and the payment of the utilities from the deposit - Exhibit B. Mr. Roberts never responded to my letter.

7. Clearly, Mr. Roberts knew that he was no longer in charge of my apartment as he informed Feathered Nest Real Estate Agent to remove it form their books. Please

see letter of April 1, 1996, Exhibit C.

8. In October, 1996, I sued Mr. Roberts to pay the utilities of my apartment, which I had to pay because Mr. Roberts preferred to keep the deposit and get interest from them. The Small Claims was "Dismissed without Prejudice." Please see Exhibit D.

9. In April of 1997, I once again wrote to Mr. Roberts requesting my rents and the interest therefrom - Exhibits E.

10. On January 6, 1999, an Order was signed by the Bankruptcy Court Ordering: "Michael Roberts, Esq., as Receiver pursuant to the foreclosure action, pursuant to 11 U.S.C. Sections 542 and 543, is to turn over any and all proceeds he acquired as receiver pursuant to the foreclosure action, including but not limited to rents received or the apartment located at 404 E. 66th Street, Apt. 12A in New York, New York, (less only statutory disbursements and receiver's or fee) within ten (10) days of the date of this Order," (i.e. January, 1999). - Exhibit E.

Once again, Mr. Roberts did not turn over my funds and disobeyed the Order.

11. A Stipulation was signed by all parties on July 19, 1999 - Exhibit G. It states the following:

"1. The Receiver having duly produced and provided and informal Temporary Receiver's Account to plaintiff, which plaintiff, which plaintiff has reviewed and approved, the parties agree to an order:

(1) approving the Temporary Receiver's

informal account;

(2) fixing the negotiated commissions of the temporary receiver;

(3) discharging the Temporary Receiver and the Surety on his undertaking;

(4) canceling said undertaking;

(5) for such other and further relief as to this Court may seem just and proper.

Firstly, if I am considered the plaintiff, which I should be, since it was my rents that were collected by Mr. Roberts, I did not review or approve any account. Mr. Roberts did not submit any account, either temporary or otherwise. It was over a year and a half later that I received a so-called accounting and that was after I filed a Motion demanding an accounting.

According to the above Order, Mr. Roberts was entitled to commissions of $758.00, but that amount is not what he took, as will be pointed out later in his so-called accounting.

Mr. Roberts did not discharge himself according to the above Order, but instead held on to my monies for two more year, thus having the use of it, in addition to the interest. Again, if Mr. Roberts canceled the undertaking, he would not have the use of my money on an ongoing basis.

There was an additional $120.00 in costs. Thereafter "authorizing payment of any and all remaining balance in the receivership account after payment of any and all outstanding debts and expenses fo the receivership owed as of January 27, 1999 to plaintiff ANN M. GLAVEY a/k/a AINE M. GLAVEY, discharge the receivership and his surety." (paragraph 3),

Mr. Roberts did not make payment to me of my rents, neither did he pay the utilities, but instead kept the security deposits from the respective tenants.

12. Over one year later, precisely on March 27, 2000, a Consent Order was presented to Judge Lehner "approving Receiver's Final Account." Please see Exhibit H. Again, the total commissions due to Mr. Roberts by his own admission is $878.00 (page 2).

Also, some where down the road, "Receiver be and will be discharged as Temporary Receiver, and the Surety on his undertaking, Home Indemnity Company of Manchester, New Hamshire, be and its shall be discharged form any and all liability on said undertaking shall be canceled."

Judge Lehner also adds: "Upon making the Payments Directed herein, and Receiver may submit an Exparts Order of Discharge and shall be discharged and undertaking canceled." (see page 3).

There was no such "Final Account" submitted with the above Consent Order, yet Judge Lehner signed the Order anyway.

13. Two months later, precisely on May 30, 2000, Mr. Roberts wrote to my attorney - Mr. Farber, enclosing a check in the amount of $11,483.04, payable to me. Please see Exhibit I. Mr. Roberts states: "I have paid myself the sum of $878.00, pursuant to the order and additional $100.00 was due to Offenhartz & Pedersen Ltd for the bond for the last year.

Firstly, the Order does not authorize any other payments above and beyond the $878.00. However, attached to Mr.

Roberts letter to Mr. Farber are copies of three different checks, numbers 1005, 1006 and 1007. Exhibit J. Check 1005 is dated May 18, 1995, yet allegedly it is for the Bond 1998-1999. Check 1006 in the amount of $878.00, is supposedly his commissions and check 1007 is dated May 00 (if one can read it) and it is illegible as to what it is for.

As I pointed out above, Mr. Roberts was relieved of his duties when I filed for Bankruptcy bank in December of 1995. Clearly, it was more advantageous to Mr. Roberts not to relinquish his "undertaking" at the time, or the Order of January 1999, nor the Order of March 2000, unit finally May of 2000.

14. The check of $11,483.14 could not be deposited to my account because my name was altered. Please see Exhibit K. It took another two months to have another check issued - Exhibit L.

15. On November 16, 2000, I filed a Motion before Judge Lehner to get a proper accounting of my monies, while Mr. Roberts was Receiver - Exhibit M. Mr Roberts did not respond to the Motion. However, Judge Lehner signed an Order "to require the receiver, Michael Roberts, to file a final accounting is granted, without objection. Such accounting shall be filed within 30 days of service of a copy of this order." Exhibit N.

This is some two years after of the bankruptcy Court on January, 1999 (Exhibit F).

Attached to the Order are two checks number 1009 in the amount of $11,483.04 and check 1010 in the amount of $2000, made payable to Saximent Arolat, dated November 9, 2000. Please see Exhibit O. There is no telling if this check

was cashed by Mrs. Arolat. Mr. Roberts has not produced the back of the check and why is she now only getting back the Deposit form 1995, with no interest to the tenant, in addition, not paying my utilities, as per the Lease Agreement. Attached also to the Order was a purported Statement of my account entitled "THE SMALL BUSINESS TEAM AT CHASE STATEMENT" - Exhibit P. It states: Michael Roberts as Receiver as Receiver for 404 E. 16th Street Apt. 12A. My apartment is on 66th Street, not 16th Street. The account had been just opened in January 2001, with an opening balance of $1,958.00. Total Deposits and Credits were 1 (one) $67.00; Withdrawals and Debits 1 (one) $25.00; Checks paid 1(one) $2000; Ending balance 0. There is a charge of $25.00 "Insufficient Funds Service Fee. Total (1 check) *Indicates gap in check sequence.

Also, attached to the Order was another purported accounting attached herewith as Exhibit Q. Allegedly, Mr Roberts has returned the security of $2000 to one tenant - Jackie Drucker, as check 1001. Once again, there is no deduction for the utilities, and clearly no interest give to Mrs. Drucker. In addition, there is no telling if, indeed, Mrs. Drucker ever received it , not alone cashed it. Mr. Roberts does not produce the front or back of the check.

In addition to the $878.00 - the only amount stipulated by the Court, Mr. Roberts has deducted an additional $600.00 from my account, allegedly to pay the Bond Company. Again, he does not show the front or back of any of those checks, and indeed, the bond Company were never entitled to such payment, as Mr. Roberts was relieved from his "undertaking" in December, 1995, when I filed for Bankruptcy protection. Check 1010 is allegedly the return of the security deposit to another tenant - Saziment Arolat in the amount of $2000.00.

As outlined previously, there is no deduction for the utilities, which I had to pay from my pocket, and no showing of the front or back of the check.

Indeed, I would like to know to which address Mr. Roberts allegedly sent the deposits to Mrs. Drucker and Mrs. Arolat. My letters to both tenants have been returned to me, which indicate that neither one live at the addresses of 7 (seven) years ago, when they rented my apartment form Mr. Roberts. Please see Exhibit R.

16. On checking my file at the Supreme Court, I noticed that Judge Lehner had simply "DISPOSED" of my case. Please see Exhibit S. Judge Lehner signed off an a Judgment of Foreclosure and Sale of my apartment, without even a Trial, on 2/9/94. Judge Lehner appointed Mr. Roberts as Receiver on 2/7/95. And Judge Lehner signed an EXPARTE ORDER, discharging Mr. Roberts on February 16, 2001. Please see Exhibit T. Apparently, Judge Lehner is happy with Mr. Roberts accounting of my affairs and my monies. I wonder if it were Judge Lehner's money, would he sign such an Order, without even been given the opportunity of reviewing it, as is the case here with my affairs.

17. Without knowing Judge Lehner had signed the Exparte Order, as outlined above, I sent a Certified letter to Judge Lehner, requesting him to sign a Subpoena to retrieve the Bank Records regarding my account. Please see Exhibit U. That letter was ignored.

18. After my letter to Judge Lehner was ignored, I filed a Motion to compel Mr. Roberts and/or Chemical Bank to supply statements in relation to my monies. Please see Exhibits

V. Mr. Roberts responded by filing a Cross Motion - Exhibit W attaching "Consent Order approving Receivers Final Account (my Exhibit H), Order, "United States Bankruptcy Court for The District of New Jersey" (my Exhibit F), and the purported accounting (my Exhibit Q).

19. I submitted a Further in Support of my Motion and in Response to the Cross Motion, attached herewith as Exhibit X.

My Motion was not frivolous, and neither is this Motion. However, Judge Lehner signs an Order stating: "MOTION IS PERMITTED TO BE WITHDRAWN" - Exhibit Y. I did not ask for "Permission for (my) Motion to be Withdrawn".

20. Mr. Roberts commenced collecting my rents on May 1, 1995. I will attach that Lease as Exhibit Z. Mr. Roberts collected my rents for May and June, 1995, that is $4000. The tenants always pay their own utilities. And since the first Lease was properly drawn by me, that tenant paid for his utilities.

The next tenancy was for a period of 3 ½ months from June 13, 1995 to September 30, 1995, to Jacqueline Drucker, Exhibit Ai. The rent was also $2000.00 per month, which equals another $7000.00. Jacqueline Drucker also gave Mr. Roberts $2000.00 Security Deposit for damages and against unpaid utilities. Please note what it states at 33. Of the Lease Rider: "The Con Edison and cable television accounts will be paid by Jacqueline Drucker." And at 34. it states: "The security deposit ($2,000.00) shall be held by Michael J. Roberts, Receiver and will be returned to Jacqueline Drucker at the conclusion of this Agreement, after all charges in item 33, above have been paid."

Mr. Roberts did not do any of the foregoing, and of course, at my expense. Jacqueline Drucker left behind unpaid telephone bills, Con Edison bills and Cable Television bills. And, yet, Mr. Roberts claims that he returned the Security Deposit of $2000.00 to Jacqueline Drucker. Indeed, this is one of the missing checks. In addition, Jacqueline Drucker is supposed to get interest on her security deposit. In fact, Jacqueline Drucker left apartment with all if the utilities in her name, except for the Cable T.V. which was left in my name.

Since my apartment attracts short term tenants because is was rented furnished, and at a premium rent, it was necessary to maintain a telephone and Con Edison and Cable T.V. Since Mr. Roberts refused to pay the utilities form the deposit, I was forced to pay them, in an effort to keep my apartment rented. And since the telephone was in Jacqueline Drucker's name, the telephone company would not disconnect it. The first bill was in the amount of $271.15 in October 1995, Exhibit Bi. The next bill was in amount of $224.19, Exhibit Ci. Jacqueline Drucker also left the Con Edison in her name, which I had to pay in the amount of $227.05, Exhibit Di. The Cable T.V. was in the amount of $70.74 and since Mr. Roberts refused to pay the utilities from the deposits he was holding, the Cable T.V. was disconnected and cost another $60.00 for reconnection, Exhibit Di.

Therefore, the amount of $271.15 + $224.19 + $227.05 + $70.74 + $60.00 equals $853.13 is due tome by Mr. Roberts.

The last and final tenant under Mr. Roberts was a Saziment Arolat from Turkey, who signed a Lease from October 1, 1995 to November 15, 1995 at a rate also of $2000.00 per month, Exhibit Ei. Copies of the rent check of $3000.00 and deposit of $2000.00, payable to Michael Roberts

are attached as Exhibit Fi. Again, at 6) Rider to Lease it states: "Tenant is responsible for paying all charges for the Con Edison, telephone and cable television (of any) accounts during the term of this Agreement."

As outlined above, the totals of my rents are respectively: $4000.00 + $7000.00 + $3000.00. Clearly that equals $14,000.00.

Approximately 5 (five) years later, Mr. Roberts sent me a check in the amount of $11,483.04. (see Exhibit I.). $14,000.00 minus $11,483.04 equals $2,516.96, i.e. a shortage to me of my rents. In addition to the $853.13 for utilities make a total of $3,370.09. Subtract his commission from that in the amount of $878.00, the figure is $2392.09. (Short fall to me).

21. In April of 1994, Judge Lehner gave me 6 (six) days to deposit the amount of $25,000.00 in Cash with the Clerk of the Court as an undertaking on Appeal. Please see Exhibit Gi. Judge Lehner also states: "Absent such deposit or filing and service of the motion to stay the sale is denied." "All other request for relief is denied."

The Bond of $25,000.00 was in possession of the Clerk of the Court of approximately 5 (five) years, the same amount of time that Mr. Roberts held on to my rents of $14,000.00. From the $25,000.00 I received approximately $6,288 in interest. Therefore, ½ of $25,000.00 is $12,500.00. Mr. Roberts was holding $14,000.00, as well as $4000.00 in deposits from the tenants. Surely, I should get interest of at least $5000.00. Instead, I get a shortfall of $2392.09 as outlined above. In addition, through Mr. Roberts negligence, my apartment was vacant for two weeks, costing me an

additional $1000.

The only difference above is that the City was in charge of my money, instead of Mr. Roberts and Judge Lehner.

With no "relief"from Judge Lehner, I sued Michael Roberts in the Small Claims Court and the hearing was set down for January 23, 2002. My Complaint was dismissed without prejudice, pending leave from the Supreme Court. Please see Exhibit Hi. "2. Plaintiff can seek leave of Supreme Court to bring action against receiver." This "Supreme Court" is Judge Lehner.

At the same time, I joined the Bond Company for Mr. Roberts - The Home Indemnity Company in the Small Claims Court claim. Both Mr. Roberts and the Home Indemnity Company filed Motions to Dismiss my claim. Please see letter dated January 11, 2002 addressed to Mr. Roberts, but sent to me by mistake. It states: "Please let me know if Judge Lehner has signed the amended ex parte January 23, 2002 hearing." (Exhibit Ii).

22. After the Small Claims hearing and during the process of drawing up the Stipulation (Exhibit Hi), Mr. Roberts stated: "You'll never got permission form Lehner." He also whispered into my Attorney's ear: "Tell her I don't owe her any money."

WHEREFORE, based on the foregoing, it is respectfully requested that this Supreme Court grant an Order, giving this victim - Anne M. Glavey, Permission to sue Receiver - Michael Roberts for my monies had and received and retained in relation to the transaction of my apartment, and for such other and further "relief" as this Court may deem "Just and Proper."

S/_____
ANNE M GLAVEY.

Sworn to me on this 5th
day of March, 5 2002.

S/_____
NOTARY PUBLIC

JUDITH G. MITCHELL
Notary Public, State Of New York
No. 01MI6058599
Qualified In Kings County
Commission Expires May 14, 2003

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X

DIME SAVINGS BANK OF NEW YORK

Plaintiff,

-against-

AFFIDAVIT
OF SERVICE
Index No. 20452/91

ANNE M. GLAVEY,

Defendants.

----------X

I Anne M Glavey, defendant in the above indexed matter, do here by state under Oath, that I have served a copy of the Notice of Motion, accompanying Affidavits on the Receiver - Michael Roberts, Roberts & Roberts, Attorneys at Law, 401 Broadway, New York, N.Y. 10013, on this 5 day of March, 2002.

Sworn to me before this day of 5th
March 5, 2002.
S/_____
NOTARY PUBLIC

S/_____
ANNE M. GLAVEY.

JUDITH G. MITCHELL
Notary Public, State of New York
No. 01MI6058599
Qualified in Kings County
Commission Expires May 14, 2003

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X Index No. 20452/91

THE DIME SAVINGS BANK
OF NEW YORK, FSB,

Plaintiff,

-against- AFFIRMATION

ANNE M. GLAVEY,
and THE BOARD OF
MANAGERS HARDENBROOK
HOUSE CONDOMINIUM,

Defendants.

----------X

MICHAEL J. ROBERTS, an attorney at law, admitted to practice in the Courts of the State of New York, hereby affirms under penalty of perjury that the following is correct:

1. I was the duly appointed Receiver in a mortgage foreclosure proceeding in an action entitled the Dime Savings Bank of New York, FSB. V. Anne M. Glavey, and the Board of Managers Hardenbrook House Condominium, in Supreme Court, New York County, Index 20452/91, by an order entered on February 10, 1995. In that proceeding I was appointed the Receiver in Apartment 12A, located at 404 East 65th Street, New York, New York 10021. In that proceeding, the defendant Anne M. Glavey, was a tenant, thereof. A copy of the order appointment is attached hereto as Exhibit 1.

2. In order to qualify as a Receiver, on February 21, 1995, I purchased a bond from the Home Indemnity Company. Acting in its capacity as a surety, the Home Indemnity Company issued bond number NBF78-47-37, on behalf of myself in the amount of $5,833.00.

3. Thereafter, I administered to the Receivership, and deposited rents into a checking account, with the Chase Manhattan Bank, 403 Broadway, New York, New York 10013. During the course of the receivership, I entered into two leases. One with Jacqueline Drucker, for second lease with Saziment Arolat, for a period of month and half, commencing October 1, 1995 and ending on November 15, 1995.

4. Under the term of both leases, the tenants were responsible for the payment all utilities. In fact, the bills submitted by Anne Glavey in support of her application show's that tenant Drucker maintained NYNEX and Con Edison accounts at that address. Therefore, if the bills were voluntarily paid by Ms. Glavey, it was of no concern to the Receiver.

5. In addition, the security deposit made by both of those tenants was duly returned to both of them, prior to the conclusion of his proceeding. It is true, that on or about December 8, 1995, I received a letter from Ms. Glavey, stating:

"Would you kindly return to me the amount of $2000, plus interest from the escrow account. At which point, I will then make the necessary deductions, and forward the balance to Mrs. Arolat."

I could not return the security money that was held in the escrow to Ms. Glavey, the debtor in the foreclosure action. It was not her job to make deductions at her whim and caprice,

and pay the expenses of the tenants with whom she had no privity. The order of Receivership was still in full force and effect and remained in effect until the order of discharge was signed by Justice Lehner of the Supreme Court. After a bankruptcy petition was filed by Ms. Glavey in Bankruptcy Court I had not other communication from Ms. Glavey concerning her dispute with the former tenants, Drucker and Arolat. I did not, however, immediately return the check to Saziment Arolat, the tenant, because there seemed to be some question in the mind of Ms. Glavey, as to whether any money was due. Thereafter, I heard nothing more from Ms. Glavey concerning this matter.

6. Although Ms. Glavey states that she sued the Receiver in State Court in an action that was later dismissed without my appearance. I knew nothing of that action until these proceedings were brought on Ms. Glavey. Ms. Glavey commenced a bankruptcy action in Federal Court, for the purposes wiping out all of her debts with the plaintiffs in the foreclosure proceeding. In that proceeding she was represented by Seth Farber of the law firm of Max E. Greenberg, Trager, Toplitz & Herbst, 100 Church Street, New York, New York 10007. Mr. Faber represented Ms. Glavey's interests in the bankruptcy proceeding. No request was made of me by Mr. Farber to terminate the proceeding. More importantly, no motion was made, pursuant to the Section 543 of the Bankruptcy proceeding to turn over monies that the Receiver had in his possession.

7. In 1999, I was finally contacted by Mr. Farber, who suggested that I prepare an "informal accounting" and I produced a consent order that was submitted to the Bankruptcy Court, pursuant to a stipulation between the attorneys for the parties in the bankruptcy case. The attorney's for the creditor

were Hack, Piro, O'Day, Merklinger, Wallace & Mckenna, P.C., 30 Columbia Turnpike, P.O. Box 941, Floral Park, NJ 07932-0941. The consent decree was signed by Hack, Piro, Seth Farber and myself. The consent decree was so-ordered by the Court in July 19, 1999. That consent decree, Exhibit G to Ms. Glavey's moving papers provided as follows:

It is hereby stipulated and agreed that plaintiff shall accept and approve the informal receiver's formal final account, and consent to the entry of an order approving the receiver informal final account, and approving receiver's claim for duly earned statutory commission in the amount $758.00; it is further agreed that the parties consent to the entry of an order approving the receiver's formal final account in the amount $758.00; approving the receiver's claim for statutory commission in the amount of $758.00, and $120.00 for costs [mostly Federal Express] and authorizing payment of any and all remaining balance in the receivership account after payment of any and all outstanding debts and expenses of the receivership account owed as of January 27, 1999 to plaintiff ANN M. GLAVEY a/k/a AINE M. GLAVEY, and discharge the receivership and his surety.

8. Thereafter, I contacted the Supreme Court, New York Clerk's office and was advised that I would have to make a motion before Judge Lehner, discharging the Receiver and the Surety in State Court. At no time did Mr. Farber, the attorney for Ms. Glavey, ever make any motions in the Federal action, asking me ever to turn over any money to him or his client. Thereafter the order consent in bankruptcy court was duly signed on July 19, 1999, by Novalyn L. Wilfield, a Bankruptcy Judge.

9. Thereafter, on March 2, 2000, I made a motion on notice to the Hon. Edward H. Lehner, for a consent order approving the Receiver's final account, that had previously been approved by the Bankruptcy Court. That Consent Order was duly signed by all parties, including Ms. Glavey's attorney, Seth J. Farber. That order, dated March 27, 2000 and exhibit H, attached to Ms. Glavey's moving papers, and duly signed by the Hon. Edward H. Lehner, and provided further

Upon making the payment directed herein, and Receiver submitting an ex-parte order of Discharge, shall be discharged and undertaking canceled.

10. On February 14, 2000, your affiant submitted said ex-parte order to the Hon. Edward H. Lehner, (Exhibit T to Ms. Glavey's moving papers) and it was duly signed by Judge Lehner on or about February 16, 2000.

11. Neither of the above orders was ever appealed from by any of the parties herein, and the time to appeal has long since run.

12. On or about November 16, 2001, six months later, the defendant Glavey, moved pro se before the Hon. Judge Lehner for another "accounting". The motion was denied by Judge Lehner and withdrawn.

13. Thereafter, Judge Lehner of the Supreme Court discharged you affiant and further discharged Home Indemnity Company, the provider of the surety bond. Thereafter on March 6, 2001, the debtor/defendant wrote to Judge Lehner, requesting that the Judge sign a subpoena, requesting copies of the receiver's records for Chemical Bank. The Judge refused to sign said subpoena.

14. Your affiant cross moved for this Court to assess sanctions against the defendant Glavey, for making frivolous motions and awarding the discharged Receiver additional costs for the making of the cross-motion.

15. Apparently not pleased with the response of the Court, Ms. Glavey then sued Feathered Nest, the subleasing agent, Home Indemnity, and your affiant in Small Claims Court. Citing the authority of *Copeland v. Solomon,* the Hon. Lucy Billings, dismissed the complaint without prejudice, with leave to renew if this Court granted her the relief to sue the Receiver.

16. Your affiant has been paid a total $765.00 and an additional $120.00 costs, for all the work done in this Court, and bankruptcy Court since the commencement of this proceeding. Of course, all of this additional work has come after defendant Glavey received the proceeds, which was the balance of the monies held by your affiant in an account held at Chase Bank. Therefore, since this money has already been paid to Ms. Glavey, this Court is unable to assess additional fees, for the additional work done by you affiant.

17. I received a letter, just recently, form Ms. Glavey, dated March 3, 2002, requesting that I provide the addresses for Jackie Drucker and Saziment Arolat, so that she could correspond and try to coerce $800.00 form the former tenants more than seven years after the debt was allegedly incurred. A copy of that letter is attached hereto as Exhibit 2.

18. It is indeed unfortunate that Ms. Glavey's attorney, Seth Farber, named on front of these moving, did not properly explain the law to his client. In her affidavit, Ms. Glavey in paragraph 2, incorrectly concludes, that she is entitled to

"have monthly statements of deposits into and withdrawals forwarded to me."

Ms. Glavey is referring to the Receiver's bank account records from the Chemical Bank. Those deposits and withdrawals were forwarded to our affiant. It is pointed our that all of the checks written during Receivership by your affiant were produced in the final accounting, filed with the Court.

19. Ms. Glavey incorrectly assumes in her papers, that because she filed for bankruptcy, the Receivership was automatically terminated. This is not the law. In her Bankruptcy proceeding, there was no turnover motion made pursuant to Section 543 of the Bankruptcy Code. Therefore the monies remained in my possession until, I was discharged by the State and federal Court. Until I was formally discharged in the State proceeding, contrary to the position of Ms. Glavey, I was prohibited from making any payments to her of the balance remaining in the Receivership account.

20. Contrary to Ms. Glavey's belief, the money being held in the checking account did not earn interest during the period of time that the action was pending. In fact, to the contrary, the account was charged fees, like any other account, during its time of existence.

21. In fact, after payment to Ms. Glavey's of a final amount $11,483.00, there was insufficient money in the

account to cover the monthly charges of the bank.

22. As I stated previously, I had held $2,000 in the account, which belonged to Saziment Arolat, because I believed that there might be some dispute based upon the letter of Ms. Glavey.

23. In 2002, after hearing nothing more from Ms. Glavey concerning the disputed amount with Saziment Arolat. I received a letter from Glavey, claiming that I had converted said funds belonging to Arolat. There was no truth to this whatsoever. I was finally able to locate Ms. Arolat through her employer, STS International, and forwarded a check to her for her security. I eventually received the canceled check back, having been paid through a Bank in Turkey. Since there was discrepancy in the amount available to Ms. Arolat and the bank charges, I requested, through my personal banker, that the bank credit back some of the monthly charges, so that the account would be at a zero balance and could be closed. This was done as a courtesy to me and to the benefit of Ms. Glavey, who conceivable owed the bank charges to Chase Bank.

24. Contrary to Ms. Glavey's belief, it is pointed out the Receiver is the representative of the Court, and the plaintiff and the debtor in a Receivership action. I did not act as her agent, nor did I act for the bank. I acted only as an agent for the Court for very low pay.

25. A further example of the frivolousness of this action, Ms. Glavey states as follows: "Con Edison and cable television accounts will be in the name of Jacqueline Drucker ... [T]he security deposit ($2,000.00) shall be held by Michael J. Roberts, Receiver and will be returned by Jacqueline Drucker at the conclusion of this Agreement ." Neither Con Ed or

telephone accounts were held in my name or in the name of Ms. Glavey. If Ms. Glavey chose to pay those charges, she did so voluntarily, and it is not the responsibility of the Receiver, who had no knowledge that the agreement had been breached.

26. It is clear, to your affiant, that at this point this case has been litigated thoroughly with Ms. Glavey and that his action will never be settled by her because she enjoys playing lawyer. The action arose from her default for failing to pay the Dime Savings Bank for the mortgage covering her property. In the course of that litigation, she unfortunately has become a professional pro se litigant, whose life is now tied to bringing law suits against every conceivable party who has ever come into contact with her, including the bonding company. This action is frivolous and should be dismissed.

WHEREFORE, the motion should be denied in the entirety, together with such other and further relief as my be just and proper in the circumstance.

Affirmed: New York, New York
March 23, 2002

S/_____
MICHAEL J. ROBERTS

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X Index No. 20452/91

THE DIME SAVINGS BANK
OF NEW YORK, FSB,

Plaintiff, NOTICE OF CROSS-MOTION

-against-

ANN M. GLAVEY, and THE BOARD OF MANAGERS HARDENBROOK HOUSE CONDOMINIUM

Defendants.

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PLEASE TAKE NOTICE, that upon the annexed affirmation of the discharged Receiver, Michael J. Roberts, affirmed the 23rd day of March, 2002, the Discharged Receiver will cross-move this Court, submission Part, Room 130, located at 60 Centre Street, New York, New York on March 29, 2002, at 9:30 am in the forenoon of that day, or as soon thereafter as counsel may be heard, for an order:

13 Assessing sanctions against defendant Anne M. Glavey for the making of a frivolous motion and a continuous course of frivolous conduct; and

(b) Awarding the discharged Receiver, Michael J. Roberts additional attorney's fees and costs for the making of this Cross-Motion; and

(c) Enjoining the defendants from making any further motions against the Receiver in the within action, or related without the permission of the Court; and

(q) Such other further relief as may be just and proper in the circumstance.

PLEASE TAKE FURTHER NOTICE, that pursuant to CPLR 2214(b) & 22 NYCRR 202.8, *et seq,* responsive papers, if any, are required to be delivered to the undersigned at lease five (5) before the return date of this motion.

Dated: New York, New York
March 23, 2002

S/_____
Michael J. Roberts
Attorney signature pursuant to section 130-1.1-a of the Rules of the Chief Administrator A member of the Firm of
Roberts & Roberts
Attorneys for the Discharged Receiver
401 Broadway,
New York, New York 10013
(212) 226-4925

To: Anne M. Glavey
Defendant pro se
P.O. Box 1514
New York, New York 10009-8905
(212) 473-4457

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X Index No. 20452/91

THE DIME SAVINGS BANK
OF NEW YORK, FSB,

Plaintiff,

-against-

AFFIRMATION IN OPPOSITION AND IN SUPPORT OF CROSS-MOTION

ANNE M. GLAVEY,
and THE BOARD OF
MANAGERS HARDENBROOK
HOUSE CONDOMINIUM,

Defendants.

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MICHAEL J. ROBERTS, an attorney at law, duly admitted to practice in the Courts of the State of New York, hereby affirms under penalty of perjury that the following is correct:

1. The relevant facts of this case are that I was appointed Receiver by order of the Hon. Edward H. Lehner, JSC, on or about February 17, 1995. After serving as Receiver for a period of time for this apartment, Ms. Glavey declared bankruptcy in December 1995. Contrary to Ms. Glavey's belief that I was no longer Receiver after December 1995, I was not discharged until February 16, 2001 when I submitted a second Final Accounting to this Court.

2. In her bankruptcy, Ms. Glavey was represented

by Seth J. Farber, of the law firm of Max E. Greenberg, Trager, Herbst, 100 Church Street, New York, NY 1007, who duly represented her interests in the bankruptcy proceeding. Mr. Farber and I agreed to an "informal accounting", which was submitted to the Bankruptcy Court, pursuant to a consent order between the parties in the bankruptcy case, the attorneys for the Creditor, Hack, Piro, O'Day Merklinger, Wallace & Mckenna, P.C., 30 Columbia Turnpike, P.O. Box 941, Floral Park, NJ 07932-0941, Seth J. Farber and myself. It was submitted to the Courts in February 1999. Based upon your affiant having produced, provided an informal Temporary Receiver's Account, which plaintiffs and her attorneys approved, the parties agreed to an order discharging the Receiver and the Surety in his Undertaking. (A copy of the Informal Account is attached to Ms. Glavey's moving papers as Exhibit Q).

3. The basis of that consent was an order the United States Bankruptcy Court of the District of New Jersey, which stated that "It is further ordered that Michael Roberts, as Receiver, pursuant to the foreclosure action, pursuant to 11 U.S.C. §§542 and or 543 is to turn over any and all proceeds he acquired as Receiver pursuant to the foreclosure action, including but not limited to the rents received for the apartment located at 404 E. 66th Street, Apt. 12A in New York, New York, (less only statutory disbursements and Receiver's commission or fee) within ten (10) days of the date of this Order. (A copy of that Order is attached to Ms. Glavey's moving papers as Exhibit F).

4. The payment of my fees and approval of the Temporary Receiver's Final Account, should have been sufficient to put this matter to rest. I have had this file in my possession for nearly six years, while the sole amount of money earned in this matter was $878.00. In fact, after I paid Ms.

Glavey the balance of the funds in the account, I learned that I had over paid her, because money was owned to Chase Bank for the operation of the accounts, subsequent to paying her money.

5. Since Ms. Glavey has commenced this action, I have been forced to respond to numerous motions in this Court, and have been sued twice in Small Claim Court by the defendant for actions that occurred during and as a result of my administering the Receivership in this proceeding. Prior to this current action, she has sued for an accounting, which was provided, she has sued for the right to subpoena Chemical bank, and in the motion-in-chief, she is sues for the right to sue me again. She wished to obtain permission form this Court to sue me in Small Claims Court for money owed by the former tenants for utilities at an apartment, that I leased as Receiver. As was earlier pointed out, the utilities were in the names of the tenants and not in the name of Ms. Glavey. Ms. Glavey has apparently paid the bills on behalf of the tenants and now seeks reimbursements from the Receiver for her voluntary payments on behalf of the tenants.

6. For all these lawsuits brought against me, for all the motions I have to answer and produce and for all the work that I have done on behalf of the Receivership, I have received only $758.00 (the commissions) and an additional $120.00 costs that were incurred administering to the Receivership. For that $758.00 I have to defend this action, and prepare orders, both in the United States Bankruptcy, and the State, as well as to prepare a final accounting in both Courts.

7. It is not apparent to me and should be apparent to the Court, that the motions of defendant Glavey, are frivolous and without any merit whatsoever. It is equally obvious, that

unless this Court intervenes, you affiant will suffer irreparable damage in that I will be forced to defend one law suit after the other, all without merit.

8. In addition, I will be paid for none of them, because the professional litigant Glavey, was smart enough to receive all her money before any of these motions were commenced.

9. What is most outrageous, is that the accounting in this action and in the Federal Bankruptcy Court, was stipulated to by all of the attorneys in those actions. It is noteworthy that Ms. Glavey has put Seth Farber as a person with notice on the front of this motion. It was indeed Seth Farber who appeared on behalf of defendant Glavey in Small Claims Court and most likely, it is Seth Farber who advised and prepared these papers on behalf of Glavey.

10. Furthermore, not only has Ms. Glavey commenced actions against the Receiver, she has commenced actions against the bonding company, Home Indemnity, and the real estate brokerage firm, Feathernest, on the upper east side. In addition, it appears that she now seeks further information, as to the addressees of the sublessors so that she could initiate proceedings against them, more than seven years after their occupations of the apartment was terminated by its terms.

11. It is further obvious that unless this Court intervenes and bars the defendant from commencing actions, that she well continue to commence actions and harass your affiant, as well other innocent parties to this action until hell freezed over. Ms. Glavey's actions have done irreparable harm to me, and will continue to do irreparable harm to me, as I will be forced to defend these actions, all without merit, long after

I have been discharged by this Court from my duties and long after the parties had agreed to the final accounting.

12. Certainly a motion is frivolous when it is asserts position, conduct or defense, that the party knows or should know or is obvious that such actions without merit and brought solely to harass or maliciously injure another person. It is further frivolous if a position taken by a litigant that knowingly advances a claim or defense that is unwarranted under existing law. In this action, defendant Glavey continues to prolong unnecessary litigation, which has already been concluded and has not been appealed from by Ms. Glavey.

13. Remarkable, the essence of Ms. Glavey's claim (after many readings) is that the Receiver owes Ms. Glavey money because she voluntarily paid the electric and telephone bills of tenant, pursuant to a written lease made with the Receiver which called upon the tenant to pay their own electricity and telephone.

14. In addition, a further reading of the alleged complaint shows that Ms. Glavey feels robbed, because the money collected during the term of the Receivership, was put into a non-interest bearing checking account. It is clear the that the conduct of the "pro-se Glavey", in this action satisfies the definition of frivolous conduct, that is conduct "undertaken primarily...to harass maliciously injure another" (22 NYCRR 130.1C(2).

15. Finally, it is clear that the pro se Glavey, agreed through her attorney to two separate final accountings, one in the Bankruptcy Court and the other in this Court. However, Ms. Glavey now seeks to extend this litigation after it has been closed, the bonding company released and the debtor/plaintiff

Glavey paid pursuant to the orders that she agreed to through her attorney Seth Farber. Obviously, it is no accident that she commences these actions subsequent to the discharge and her receiving the money in the Receiver's' accounts. If Ms. Glavey has made this motion prior to the discharge, when there was money tin the Receiver's account, I would be able to hire an attorney, and surcharge Receivership for that cost. This action must come to and end and the litigation must and should have come to and end.

16. You affiant has other matters to attend to for which he is being paid. Unless this Court steps in and prohibits defendant Glavey from commencing new action against myself, the former tenants and the bonding company, she will continue to harass all of us until we all just give up and through up our hands. This is not fair. It is not fair to me, it fair to the bonding company, it is fair to the former tenants, I have no other remedy at law, and therefore I am asking that this Court to impose, not only sanctions, but an injunction barring Ms. Glavey from commencing anymore actions in this Court, without the approval of the Court.

17. I too have other interests and I would prefer not to continually be pursued by Ms. Glavey or to resist her outlandish demands. It is prohibitively expensive and damaging for me to do so and to take time from my other interests to come to Court.

WHEREFORE, I ask the Ms. Glavey be denied, the Cross-Motion be granted, together with such other and further relief as may be just and proper in the circumstance.

Affirmed: New York, New York
March 23, 2002

S/_____
MICHAEL J. ROBERTS

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X

DIME SAVINGS BANK OF NEW YORK

Plaintiff, Index No. 20452/91

-against- FURTHER AFFIDAVIT IN SUPPORT OF MOTION AND IN OPPOSITION TO CROSS-MOTION

ANNE M. GLAVEY,

Defendants.

----------X

STATE OF NEW YORK )
) ss.:
COUNTY OF NEW YORK )

ANNE M GLAVEY, being duly worn, deposes and says:

1. I am the Defendant in this action and the owner of the subject premises at 404 East 66th Street, Apartment 12A, New York, N.Y. 10021, and Michael Roberts was appointed Receiver on February 22, 1995.

2. I make this Affidavit in further support of my previous Affidavit and in opposition to Michael Robert's cross-motion.

3. Michael Roberts is simply attempting to bluff his way through the Courts and avoid giving me a proper,

straightforward and honest accounting of my affairs while he was Receiver of my apartment and collected the rents thereof. His responses thus far to my requests are untruths, inconsistencies, contradictions and denials, all in an effort to smooth over "Temporary Receiver", "Formal Receiver", "Informal Temporary Receiver", "Formal Temporary Receiver", "Temporary Accounting, "Informal Accounting", "Temporary Informal Accounting", "Informal Temporary Accounting," "Final Informal Temporary Accounting" and so on.

3. Mr. Roberts cannot even get the address of my apartment straight. In the first paragraph of his Affirmation, he states 65th Street and in his alleged checking account it states 16th Street and in previous papers 64th Street is mentioned. My apartment is located on 66th Street. Of course, this done intentionally and to his benefit, in an effort to demonstrate that his accounting of my affairs is just as haphazard, and of no moment.

4. The "defendant Anne M. Glavey, was (not) a tenant" of my apartment at the time Mr. Roberts collected rents from the real tenants. Mr. Roberts then states "I entered into two leases." Namely, Jacqueline Drucker and Saziment Arolat. There is not mention of the $4000.00 that he collected from Mr. Jose De Diego Arozamenna, when he first took over Receivership and when I already had secured a tenant (Exhibit Z of my Motion.). The tenant had paid the first three months in advance and the remaining two months went to Mr. Roberts. He was, indeed, quick to write to me threatening me with contempt of Court if the rents were not sent directly to him. Please see Exhibit A, attached here with. There certainly is no haphazardness or mistake of address in this letter.

5. Since I drew up the Lease of Mr. Arozamenna and knowing that he was responsible for the utilities, they were paid by him. According to his own admission, Mr. Roberts knew that "the tenants were responsible for the payment of all utilities." Yet, Mr. Roberts states "It was of no concern to the Receiver." Then, whose concern was it? I had no control of my own apartment at that time. As I have preciously explained, it was necessary to have operating utilities to secure tenants and especially short term tenants from out of town. Mr. Roberts states "the security deposit made by both of those tenants was duly returned to both of them," (prior to the conclusion of this proceeding.) - whatever that means? Apart from "stiffing" me, it appears also that Mr. Roberts does not mind stiffing the utilities companies, for which he received and retained $4000 in deposits against the payment of utilities. Apart from being stipulated in both Leases that all utilities were to be paid from the Security Deposits, Mr. Roberts was put on Notice as early as December, 1995 that the utilities had to be paid rom the deposits that he was still holding. Yet he admits he only returned the deposit to Mrs. Arolat at the end of the year 2000. The truth of the matter is that, it appears, that the $4000.00 was never returned, as well as stiffing me for the utilities.

6. Indeed, by his own admission, he was also stiffed the tenants out of their interest on their deposits, which , by Law, is required to be placed in an interest bearing account. During the course of the years and up to now, Mr. Roberts knew very well that the tenants had not paid for the utilities and why should they when Mr. Roberts was holding a deposit of $2000.00 from each tenant respectively. The information was constantly relayed to Mr. Roberts by my letters to him and suing him in Small Claims Court. (see Exhibit B, D and E of Motion.) "Although Mr. Roberts knew nothing of those

proceedings, he was physically in Court." Indeed, in an effort to continue with his confusion, Mr. Roberts states "Although Ms. Glavey states that she sued the Receiver in State Court in an action that was later dismissed without my appearance." Obviously, what he should have stated is Small Claims Court and without prejudice. (see paragraph 6, page 3 of his Affirmation).

7. Please see Exhibit R of my Moving papers and Exhibit 2 of Mr. Roberts Affirmation. Mr. Roberts refers to the payment of the utilities to "try to coerce $800 from the former tenants more than seven years after the debt was allegedly incurred." Indeed, the former tenants could not now sue Mr. Roberts, as the six years statute has expired. Indeed, Mr. Roberts was also hoping that this is what would be the situation in my case and that I would simply "go away." Clearly, it is not Mr. Roberts who just "gives up and through up (our) hands" but his victims.

8. The purpose of a Bond Company is to protect me against fraudulent accounting and negligent behavior in relation to my transactions while Mr. Roberts was Receiver of my apartment; hence the reason they were included in the suit. Feathered Nest Real Estate Agent took $1,500.00 in Commissions on a rental of 1 ½ months from Mrs. Arolat of S.T.S. International Trading, Inc.. Please see Exhibit B, attached herewith. Surely, it was up the Real Estate Agent and Mr. Roberts who was holding the Security Deposits of the tenants against he utilities, to pay those bills, as outlined and contracted in the Leases themselves, and not this victim herein. Thus, the reason for the Court joining all three parties in the suit. Indeed, Mr. Roberts is correct in stating that he did not act as my Agent, nor the Agent for the Dime Savings Bank, but an "Agent of this Court" and of course, himself.

9. On the contrary, Mr. Roberts was "clever enough" not to give me or my Attorney or the Bankruptcy and accounting of my monies, either "formal" or informal" "temporary" or otherwise, when the Stipulation was signed by the Bankruptcy Court Judge, on July 19, 1999 (Exhibit Go of my Motion) and I was forced to file a Motion on November 16, 2000 to get an accounting (Exhibit M of my motion papers). Mr. Roberts submitted a purported accounting with the Court (Exhibit Q of my Motion) and an Exparte Order was signed by the Court discharging Mr. Roberts, on February 16, 2001, (Exhibit T of my Motion), all of which I was never informed. No wonder Mr. Roberts states "the time for Appeal has expired."

I did not declare Bankruptcy "to wipe out all of my debts" but to pay my bills under Chapter 13. Indeed, yet another lawyer took 10 of my monthly mortgage payments to act not as "Receiver" but as a "Trustee". The Referee - another lawyer asked for a "bribe" over and above his statutory fee, for him to compute the amount I allegedly owed to the bank. Contrary to Mr. Roberts statement, I would not "play lawyer if you paid me.

10. The thrust of my Motion is not just the unpaid utilities in the amount of $853.13, outlined in my Motion papers, paid by me in 1995 and now I should be entitled to interest thereon. As outlined in my Motion papers, I am short $2,516.96 in my rents, had and received by Mr. Roberts. Please see Exhibit G of my moving papers and paragraph 7 of Mr. Roberts Affirmation, pages 3 and 4. I am not disputing the £758.00 in his commissions. However, there is no explanation for an additional $120.00 for costs. In addition, Mr. Roberts deducted another $600.00 from my account, allegedly to pay the Bond Company which there is no record of . Yet , he

scorns me for including the Bond Company in the law suit, when they are there to protect me and when he allegedly paid them $600.00 out of my money to do so.

11. There is no such bank account of my affairs relation to my apartment at 404 East 66th Street, only a "Small Business" Account opened at Chase in January of 2001, with an address of 16th Street. Clearly, "there was a discrepancy in the amount available to Ms. Arolat" as well as to myself, since the funds from my apartment were never in that account in the first place and his "personal banker" arranged it accordingly, as a "courtesy" to Mr. Roberts. Instead of giving me interest on $14,000.00 for six years while holding my rents and on $4000.00 on the tenants Security deposit, Mr. Roberts states "Ms. Glavey, who conceivable owed the bank charges to Chase Bank." (paragraph 23 of his Affirmation). I fail to see how this could "benefit" me, but , indeed, as she states "as a courtesy" to himself.

12. As I have stated previously, if there is nothing to hide, then give me the records of all the transactions into and withdrawals to the account while Mr. Roberts was receiver. Surely, Exhibit C, attached herewith is not an accounting of my affairs. There are no records of my rents deposited to the account. There are no records of withdrawals form my account. There are no records of the front and back of checks, allegedly paid to everyone. The utilities are not paid. There is no interest given to myself nor the tenants, for which Mr. Roberts has been holding $18,000.00 for over six years. And I am short $2,516.96 in my rents which Mr. Roberts collected. In addition, through Mr. Roberts negligence and the confusion of the utilities , my apartment was vacant twice for two weeks on every occasion, costing me another $2000.00.

The above flippant account would not be acceptable from an Accountant, so why should it be acceptable coming from Mr. Roberts?

13. Since Mr. Roberts has refused to give me a proper accounting of my rents had and received, transactions in to and out of my account and the bank records relating to my monies, the Motion to the Court is not frivolous for permission to sue Mr. Roberts for what I am rightfully entitled to and it is, indeed, "unfortunate" that I have to go so far to get the "Professional" Mr. Roberts to simply give me a straightforward accounting of my own monies had and received by Mr. Roberts.

WHEREFORE, I respectfully the Court to grant my Motion, allowing me to sue Mr. Roberts to account for my monies, and to dismiss Mr. Roberts frivolous Cross-Motion.

S/_____
ANNE M GLAVEY.

Sworn to me before me on this 6th
day of April, 2002

S/_____
NOTARY PUBLIC.

SHIRLEY O. COOPER
Notary Public, State of New York
County of Orange
No. 4849671
Commission Expires January 27, 2006

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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DIME SAVINGS BANK OF NEW YORK
Plaintiff,

-against-

INDEX NO. 20452/91
AFFIDAVIT OF SERVICE

ANNE M GLAVEY
Defendant.

----------X

I, Anne M Glavey, defendant in the above indexed matter, do hereby state under Oath, that I have served a copy of the Further Affidavit in Support of Motion and in Opposition to Cross-Motion and Exhibits on the Receiver - Michael Roberts, Roberts & Roberts, Attorneys at Law, 401 Broadway, New York, N.Y. 10013, on this 6th of April, 2002

S/_____
ANNE M GLAVEY.

Sworn to me before this day of 6th
April, 2002.
S/_____
NOTARY PUBLIC

SHIRLEY O. COOPER
Notary Public, State of New York
County of Orange
No. 4849671
Commission Expires January 27, 2006

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
----------X
THE DIME SAVINGS BANK
OF NEW YORK

Plaintiff,

-against-

ANNE M. GLAVEY

Defendants.
----------X

FURTHER AFFIDAVIT IN SUPPORT OF MOTION AND IN OPPOSITION OF CROSS-MOTION

Index No. 20452/91

STATE OF NEW YORK )
) ss.:
COUNTY OF NEW YORK )

ANNE M GLAVEY, being duly sworn, deposes and says:

1. I am the Defendant in this action and the owner of the subject premises at 404 East 66th Street, Apartment 12A, New York, N.Y. 10021, and Michael Roberts was appointed Receiver on February 22, 1995.

2. I make this Affidavit in further support of my previous Affidavit and in opposition to Michael Robert's cross-motion.

3. I am a Pro se litigant in this matter and Michael Roberts is supposed to be the "Professional" receiver who

continues to obstruct my "receiving" a proper and "professional" accounting of rents, deposits and all other evidence and writings relation to the subject premises, although he placed his signature to an Indemnity Company that he "shall faithfully discharge the duties of his trust, and shall duly account for all monies received by him as such Receiver", and for which it was I who had to pay the Bond.

4. True, I have litigated this action for may years and yet never had my day in Court, but simply had my property "rubber stamped" over to the bank on a Summary Judgment Motion. And, now, Michael Roberts, the receiver of my monies is attempting to stop me from filing a simple Motion for an accounting of all monies collected by him whilst he was Receiver, which I am duly entitled to.

5. It was hardly "at great expense to all parties", except to myself when the bank attempted to take over my apartment after getting the "insider price", putting one third down on the initial payment, just had paid off my $80,000.00 in interest, with a principle balance due of $109,000.00, and an apartment worth $350,000.00 then. Surely, Michael Roberts is aware that it is never the bank who pay their leal fees, but are added to the defendants bill. $878.00 is not a small fee fore doing nothing, except to cause me loss of rents, aggravation and hassle. Had I not declared Bankruptcy, certainly Michael Roberts would have bankrupt me, in any event.

6. When I declared bankruptcy in December of 1995, the Receiver is automatically dismissed. In addition to having done nothing in regards to my apartment, he held on to my $14,000.00 in rents for five years without any interest to me, which I was duly entitled to . On the $25,000.00 lodged with the New York City Department of Finance, I received

$8,000 in interest over the same period. In addition, Michael Roberts held two different deposits in the amount of $2,000 respectively from tenants in my apartment and never made any deductions for the utilities, which was well aware of and constantly reminded of. There is $2,516.96 missing from my rents. The utilities were $853.13. Apart form the $100, and additional $500 was never paid to the Indemnity Company. Further, I lost $2000 in rent owing to Michael Roberts negligence. (See letter of March 6, 2001 and attachments to Judge Lehner).

7. There was no "informal Temporary Receiver's Account" account to or approved in Michael Roberts Exhibit 1, only an amount of $878.00 stipulated as commissions to him.

8. The Order of the Bankruptcy (Michael Roberts Exhibit 2) was signed on January 6, 1999, wherein it states: "It is further ordered that Michael Roberts, Esq., as Receiver pursuant to the foreclosure action, to 11 U.S.C. Sections 542 and 543, is to turn over any and all proceeds he required as receiver pursuant to the foreclosure action, including but not limited to rents received for the apartment located at 404 E. 66th Street, Apt. 12A in New York, New York, (less only statutory disbursements and receiver's commission or fee) within ten (10) days of the date of this Order."

Clearly, Michael Roberts did not abide by this Order as monies were not turned over to me until July 13, 2000 (Exhibit A). In addition, contrary to the Courts Order there were deductions made other than the statutory disbursements and receiver's commission or fee.

9. Contrary to Michael Roberts statements in numbers 11 & 12 for his Affirmation, the Leasing Agent was

Feathered Nest and Michael Roberts was referred to as "Landlord" or "Owner" in the Lease Agreement, attached herewith as Exhibit B. He was given $2000 as Security Deposit against utilities bills. See 33 of Rider to Lease. "34. The security deposit ($2000.00) shall be held by Michael Roberts did not pay the utilities, which eventually I had to pay, and allegedly returned the security deposit to Jackie Drucker (check 101) as per Exhibit 3 of his Exhibit. There is no copy of that check of $2000 to Mrs. Drucker or that it ever passed through my account at the bank.

10. It was only after my filing a Motion on November 16, 2000 to have a propre accounting of monies received (Exhibit C) that Michael Roberts submitted a purported formal accounting to the Court on February 15, 2001 (his Exhibit 3). My motion was not denied, and their was an Order filed on January 19, 2001, attached herewith as Exhibit D.

11. Once again, I had nothing to do with subsequent tenant - S.T.S. International Trading, Inc, as the Lease Agreement was drawn with the agent - Feathered News and Michael Roberts as Receiver. Please see Exhibit E, wherein Michael Roberts was paid the rent of $3,000.00 and $2,000.00 Security Deposit. In addition $1,500.00 was paid to Feathered Nest as a commission. This was 1995 and the tenant is supposed to get the deposit bank, minus the utilities. However, once again, Michael Roberts has neither paid the utilities, held on to the tenants deposit until 2001, without any interest thereon to the tenant. Further, the individual who paid out to her won account was a Mrs. Saziment Arolat from Istanbul, Turkey and the Company in New York recently went out of business. In addition, this alleged account was only from

January 5, 2001 to February 5, 2001 and was for 404 E 16th Street, not 66th Street, (Exhibit F). There was even insufficient funds in the account for the predated check on November 9, 2000 (Exhibit G) whin it allegedly cleared on January 5, 2001. Further, Michael Roberts has not shown the back of the check, or any other check, for that matter, demonstrating any endorsements.

12. Michael Roberts has been well aware, all along, that the utilities must be deducted from the security deposits and I even tried to collect by going to the Small Claims Court on 10/1/96 but he case was dismissed without prejudice, pending the turnover of funds by Michael Roberts. Please see Exhibit H.

13. An Affirmation of Michael Roberts (Exhibit I) and a proposed Exparte Order was submitted to the Court on February 4, 2001 and signed by the Court on February 15, 2001 (Michael Roberts Exhibit 4). I was not afforded an opportunity to oppose the affirmation or Order and it is only now that it has come to my attention.

14. My motion is not frivolous, hardly frivolous to the way Michael Roberts has handled my affairs, to his own advantage. If there is nothing to hide, then why object to a full disclosure of my affairs - "to supply Bank Statements, copies of checks and all other evidence and writings in their custody and power, concerning the above premises."

15. Michael Roberts cross-motion is dated June 20, 2001 and was received by me on Friday, June 22, 2001. There for it was not possible to have submitted my Answer 5 days before the return date of June 26, 2001.

WHEREFORE, based on all of the foregoing, it is respectfully requested that the Court grant my Motion and sign the judicial subpoena compelling Chemical Bank a/k/a Chase to supply Bank Statements, copies of checks and all other evidence and writings in their custody and power, concerning the account of 404 East 66th Street, Apartment 12A, New York, N.Y. 10021, and deny the cross-motion.

Sworn to me on
June 25, 2001.
S/
NOTARY PUBLIC.
Stephen E. Stanley
Notary Public, State of New York
No. 31-4926230
Qualified in New York County
Commission Expires April 4, 2002

S/_____
ANNE M. GLAVEY.

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED:

ANNE M. GLAVEY
P.O. Box 1514
New York,
N.Y. 10009-8905

May 02, 2002.

Secretary ~~to Justice~~ Lehner,
Supreme Court of the State of New York,
Room 252,
60 Centre Street,
New York, N.Y. 10013

Re: Index No. 20452/91, The Dime Savings Bank of New York, FSB v. Anne M. Glavey.

Dear Sir/Madam,

I refer to the above case which is set down for Oral Argument on May 24, 2002, at 9.30 a.m.

Since both parties are Pro se, I am requesting that a Court Reporter be present and a Record taken.

Thank you for your attention to this matter.

Very truly yours,
S/_____
Anne M. Glavey.

cc: Mr. Michael Roberts,
Roberts & Roberts,
401 Broadway,
New York, N.Y. 10013.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK Supreme Court
----------X Index No. 20452/91
THE DIME SAVINGS BANK
OF NEW YORK, FSB,

Plaintiff,

-against- AFFIRMATION

ANNE M. GLAVEY,
and THE BOARD OF
MANAGERS HARDENBROOK
HOUSE CONDOMINIUM,

Defendants.
----------X

SETH J. FARBER, an attorney duly admitted to practice before the Courts of the State of New York, under penalty of perjury, as and for his affirmation says:

1. I represented defendant Ann M. Glavey in a chapter 13 bankruptcy case entitled In re Aine Glavey, Case no. 95-29580 (NW), U.S.B.C. New Jersey. During the course of that case, Ms. Glavey had occasion to reach a stipulation with Michael Roberts, formerly the receiver appointed in connection with the underlying action here. Pursuant to that stipulation, Mr. Roberts represented that he was entitled to a commission of $758.00 for his services as receiver.

2. Insofar as CPLR 8004 provides that the maximum receiver's commission is 5% of the moneys a receiver has collected from a debtor, it was understood at the time of the stipulation (and confirmed by Mr. Roberts at the time) that this

$758 commission represented 5% of the money he was holding or $15,160.00. As after discussions with Ms. Glavey at the time indicated that this was approximately what Mr. Roberts should have collected during the time he was collecting rents as the receiver.

3. Accordingly, Ms. Glavey authorized me to execute the applicable stipulations (Record pp. 57-65) on her behalf. I should note that the stipulations were provided to me by Mr. Roberts, and were consistent with the above understanding of what he was holding.

4. Contrary to any other understanding, the "informal accounting" referred to in the Stipulations was simply the oral representation of the amount of the commission (and the disbursement) and that it corresponded to the moneys he had on hand, and the "informal accounting" referred to in the stipulations was never put in writing by Mr. Roberts. As such, any contention that Ms. Glavey failed to attach a written "informal accounting" fail to realize that none such existed.

Dated: New York, New York
October 24, 2003

_____
Seth J. Farber